Irish Probation Journal

Providing a forum for sharing theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.

An tSeirbhís Phromhaidh
The Probation Service

PBNI
Probation Board
for Northern Ireland

Irish Probation Journal

Providing a forum for sharing theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.

Irish Probation Journal (IPJ) is a joint initiative of the Probation Service (PS) and the Probation Board for Northern Ireland (PBNI).

Note
The views expressed in contributions to this journal are those of the individual authors alone and may not necessarily reflect the views or policies of any other body or organisation, in particular the Editorial Committee, the Probation Board for Northern Ireland, the Probation Service, Department of Justice Northern Ireland or the Department of Justice and Equality.

IPJ is an annual publication distributed widely to criminal justice bodies, research and academic centres and interested individuals as a forum for knowledge exchange, critical debate and dialogue on criminal justice issues, in particular, community-based sanctions.

Contents

Editorial

Now in its 14th year, *Irish Probation Journal* continues to be the sole specialist journal in Ireland dedicated to sharing research, evaluation, analysis and discussion on probation and community sanctions. *Irish Probation Journal* also encompasses a wide range of themes and issues that affect probation practice and community sanctions including social, legal, human rights, security and public safety matters.

Irish Probation Journal now has an established local and international audience that extends well beyond probation practitioners and includes judges, academics, policy-makers, researchers, teachers, students and the wider community. This diverse, multidisciplinary and international audience, our readers and friends, stimulates debate and provides an important, informed and critical readership for authors and the themes and issues featured.

Probation in Ireland has a strong tradition of collaboration, innovation and working across borders and boundaries, professional and geographical. *Irish Probation Journal* supports and encourages that co-operation and engagement, not only in Ireland but also in the rest of Europe and across the world.

Irish Probation Journal particularly welcomes the continued development of criminology in third-level education in Ireland and appreciates the major contribution academics and researchers are making to the development of criminal justice research and critical evaluation. Academics and researchers are also making a valuable contribution to the development of criminal justice policy and practice, which can only benefit and improve practice and outcomes for everyone.

This edition of *Irish Probation Journal* features valuable and timely contributions from established academic authors and experts, new researchers introducing their work, probation practitioners telling us about their hands-on experience and the leaders of the Probation services, North and South, describing current challenges.

In a new feature this year, a Probation Officer has provided a response and commentary, based on her experience in practice, to 'Chronic Offenders and the Syndrome of Antisociality: Offending is a Minor Feature!' by Georgia Zara and David Farrington, published in *Irish Probation Journal* 2016. We welcome this response, showing how *Irish Probation Journal* can stimulate reflection, questions and constructive discussion about what we do and can hope to achieve. We do hope that others will be encouraged to put pen to paper to contribute to discussions and exchange of ideas.

With articles on contemporary and emerging themes including radicalisation, the economics of interventions, desistance, 'revenge porn' and many other topics, we hope that *Irish Probation Journal* 2017 will help promote critical and constructive thinking, debate and discussion on the complex issues facing policy-makers, researchers, practitioners and the wider community in criminal justice, and in relation to community sanctions, in particular.

The cross-border, and now international, *Irish Probation Journal* editorial team invites authors to submit papers for *Irish Probation Journal* 2018. The editorial team and reviewers encourage and support authors in preparing contributions. *Irish Probation Journal* is committed to presenting the best-quality papers encompassing analysis, research, policy and practice perspectives to ensure that *Irish Probation Journal* continues to be a positive and constructive forum for sharing, co-operating and learning. Submission details are included inside the back cover.

We hope that you find this edition of *Irish Probation Journal* as thought-provoking and stimulating as we have in preparing it and, once again, we invite and encourage authors to take the next step and submit an article for the next edition of *Irish Probation Journal*.

Gerry McNally   Gail McGreevy
The Probation Service   The Probation Board for
                                      Northern Ireland

Desistance as a Social Movement*

Shadd Maruna†

Summary: Desistance from crime has been a considerable success story for academic criminology. The concept has deep roots, but did not emerge as a mainstream focus of study for the field until the 1990s movement towards developmental or life-course criminology. From these origins, however, the term has taken on a life of its own, influencing policy and practice in criminal justice. This paper will briefly review this history, then explore what might be next for desistance research among numerous possible futures. I argue that the most fruitful approach would be to begin to frame and understand desistance not just as an individual process or journey, but rather as a social movement, like the Civil Rights movement or the 'recovery movements' among individuals overcoming addiction or mental health challenges. This new lens better highlights the structural obstacles inherent in the desistance process and the macro-social changes necessary to successfully create a 'desistance-informed' future.

Keywords: Desistance, social movement theory, mass incarceration, stigma.

Introduction

Research on the subject of desistance from crime has expanded impressively in recent decades. As recently as two decades ago, hardly anyone had heard the term, and even the criminologists that created the concept could not decide how we were going to spell the word (Laub and Sampson, 2001). Ten years later, the concept appeared to be almost ubiquitous in criminal justice discussions, not just in academia, but even across a smattering of criminal justice systems ranging from Singapore (Day and Casey, 2012) to Scotland (McNeill, 2006). For instance, the US Department of Justice (2011) funded a $1.5 million field experiment of 'desistance-based practices' in probation, and desistance research

---

† Shadd Maruna is Professor of Criminology at the University of Manchester (email: shadd.maruna@manchester.ac.uk).

featured strongly in the Evidence Report of the UK Ministry of Justice's Green Paper 'Breaking the Cycle' announcing the original plans for the so-called (and short-lived) 'rehabilitation revolution' in England and Wales (Ministry of Justice, 2010).

Certainly the concept has had considerable impact on both prisons and probation practice in Ireland, north and south, largely as a result of work by Healy (2012; Healy and O'Donnell, 2008), Marsh (2011; Marsh and Maruna, 2016), Seaman and Lynch (2016), and others (e.g. Baumer *et al.*, 2009; Dwyer and Maruna, 2011; Maruna *et al.*, 2012; Vaughan, 2007). In the clearest sign that the concept has come of age in Ireland, the Irish President, Michael D. Higgins, addressed the Cork Alliance conference[1] on the subject of 'The Ethics of Supporting Desistance from Crime' in September 2016.

In what follows, I will briefly outline the idea behind desistance and why it has had such a transformational impact on justice practices. Then I will turn to the question of what is next for desistance thinking. I argue that the next chapter of the desistance story will largely be written by desisting ex-prisoners themselves. That is, I see desistance moving from a scientific area of study to a social movement, like the Civil Rights movement or the 'recovery movements' among individuals overcoming addiction or mental health challenges. Reframing the understanding of desistance as not just an individual process or journey, but rather a social movement, in this way better highlights the structural obstacles inherent in the desistance process and the macro-social changes necessary to successfully create a 'desistance-informed' future.

What is desistance? And what is the big deal?

At the heart of desistance research is a very simple idea: people can change. Although crime has long been understood as a 'young man's game' (and here the gender choice is intentional), criminal justice policy and practice, especially in the US, has unfortunately been based on the notion that the 'offender' is somehow different than the ordinary person and 'once a criminal, always a criminal' (Maruna and King, 2009). Desistance research, in this context, was a recognition of the vast number of 'false positives' in this pessimistic assumption of risk. That is, most of the people we label as 'offenders' actually spend only a short time in their lives involved in criminality.

---

[1] http://www.corkalliancecentre.com/

Figure 1. Recorded offender rates per 1000 relevant population by age-year and sex, England and Wales, 2000 (from Bottoms *et al.*, 2004)
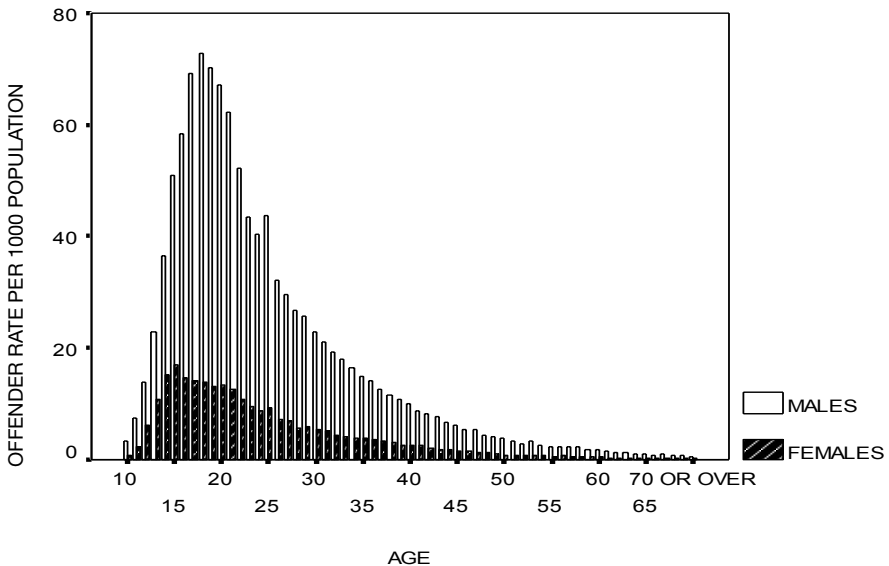
Longitudinal cohort studies of young people over time (e.g. Farrington, 1992) demonstrate that most of us engage in criminal behaviours in our youth, but almost all of us 'grow out' of such things as we age and move into different roles in society (employment, parenting, and so forth) (see Sampson and Laub, 1993). Even for the individuals whose crimes become known to the criminal justice system, participation in 'street crimes' generally begins in early adolescence, peaks rapidly in the late teens or early twenties, and dissipates before the person reaches 30 years of age (see Figure 1).

Beginning in the 1980s, criminologists started to label this process 'desistance from crime', understood as the long-term absence of criminal behaviour among those who previously had engaged in a pattern of criminality (Maruna, 2001). Today, there is a thriving body of research on the topic from a new generation of scholars seeking to understand how and why individuals are able to desist despite the considerable obstacles they face in reintegrating into society (see especially exciting new works such as Abrams and Terry, 2017; Hart and van Ginneken, 2017; Rocque,

2017; Weaver, 2015). Indeed, Paternoster and Bushway (2010) have argued that 'Theorizing and research about desistance from crime is one of the most exciting, vibrant, and dynamic areas in criminology today.'

Of course, there is nothing new about studying offender rehabilitation or (its opposite) criminal recidivism. Thinking about this change process in terms of desistance, however, is a unique lens. Indeed, the term 'desistance' was initially used in the literature to refer to the opposite of rehabilitation – one either was rehabilitated by the state or else they desisted on their own, spontaneously. This notion of 'spontaneous desistance' is now out of fashion, but there are still important differences between desistance and rehabilitation as concepts.

Rehabilitation is typically explored in the aggregate and with a focus distinctly on the effectiveness of 'programmes' or institutions in generating change. With rehabilitation research, the question is 'what works?' and getting to the answer typically involves programme evaluation research privileging randomised controlled trials (RCTs) or quasi-experiments (see Gendreau *et al.*, 2006; MacKenzie, 2012). Desistance research, on the other hand, focuses on individual journeys and not on programme outcomes. The question is 'how' does desistance work, and getting to the answer often involves longitudinal studies of individuals over time (e.g. Farrall, 2004; Bottoms and Shapland, 2010) or qualitative research on the self-narratives of individuals who have moved away from crime (see e.g. Fader, 2013; Halsey, 2006; King, 2013; Leverentz, 2014; Maruna, 2001; Veysey *et al.*, 2013).

The shift in focus from rehabilitation ('what works') to desistance ('how it works') has had subtle but important implications for criminal justice practice, echoing the debates in the field of drug addiction work between 'treatment' and 'recovery' (see Best and Lubman, 2012; White, 2000). As rehabilitation was typically conceived as a sort of 'medical model', complete with language like 'treatment effects' and 'dosage', the focus was on assessing individual deficits (risks and needs) and identifying the most appropriate expert treatment strategy to 'correct' these individual shortcomings or fix broken people.

The desistance perspective, instead, focused less on treatments than on relationships, including those with practitioners or other prisoners, but also including a much wider web of influences across the life course, including families, employers, communities and beyond (see Porporino, 2010; Weaver, 2015). Along with this came a shift in focus from 'correcting' individual deficits to recognising and building individual

strengths (Maruna and LeBel, 2003), framing individuals in the justice system as people with 'talents we need' (Silbert, cited in Mieszkowski 1998), and designing interventions that provide opportunities for them to develop and display this potential (Burnett and Maruna, 2006).

Perhaps the most interesting implication of the research so far has been for the potential role of former prisoners as 'wounded healers' (Maruna, 2001; Perrin and Blagden, 2014; LeBel, 2007), drawing on their experiences to help others avoid their mistakes and benefit from the inspiration of their achievements. As one such mentor (sometimes called a 'credible messenger') told me, the reintegration process is a minefield for ex-prisoners and 'There is only one way to get through a minefield: you have to watch the guy in front of you, and if he makes it through, you follow in his footsteps' (field notes).

Of course, this sort of mutual aid is an idea with old roots and is not original to desistance theory. In fact, Albert Eglash, the social scientist who is credited with coining the term 'restorative justice', wrote the following more than a half century ago:

> Our greatest resource, largely untouched, to aid in the rehabilitation of offenders is other offenders. Just how this resource is to be effectively tapped as a constructive power is a matter for exploration. Perhaps Alcoholics Anonymous provides some clues. (Eglash, 1958–59: 239).

Yet the concept of the wounded healer was something of a natural fit for desistance research. After all, if the core message of desistance research was that there was much to learn from 'success stories' who move away from crime, then surely the same thing could be said in the criminal justice environment. The wounded healer could deliver the desistance message (people can change) directly on the frontlines of reintegration work where it can have a direct impact. As a result, projects such as the work of the St Giles Trust that draw heavily on this peer-mentoring model are often called 'desistance-focused' (see Barr and Montgomery, 2016), and the proliferation of this model in contemporary criminal justice practice may be one of the primary achievements of desistance work to date.

What on Earth next?

As the desistance idea has clearly made a big impact in a relatively short span of time, it is interesting to ask where the idea is going next – if indeed it is not simply to be replaced by the next passing intellectual fad. As in

the familiar academic cliché, 'more research is needed' on the subject and new and interesting findings will continue to emerge. However, as someone who has been involved in desistance work for two decades now, my view is that scientific research – at least the types we have become familiar with based in universities and justice institutions – will begin to take a more secondary role as desistance theory changes shape in the near future. The desistance concept has already evolved over the past few decades. It has moved from being a purely scientific/academic idea to a much more applied topic, animating practice and policy. I argue that the next stage of this evolution will be the emergence of desistance as a social movement.

Social movements, of course, are powerful forces that by their nature tend to take societies in surprising new directions. The remarkable achievements of the Civil Rights movement in the United States are a well-known example. Yet it is still shocking to realise that it was only in 1955 that Rosa Parks refused to give up her seat on a segregated bus, and in 2008, Barack Obama was elected President of the United States. To move from 'back of the bus' to the first African American president within the lifetime of a single generation would seem unthinkable, except when one realises the phenomenal mobilisation and civil rights organising that took place during those five decades.

The struggle for LGBT rights in Ireland tells a similar story. Until 1993, same-sex sexual activity was a criminal offence in Ireland, yet in 2015, the Irish public voted overwhelmingly to legalise same-sex marriage in a historic referendum, and the country currently has an openly gay Taoiseach. Again, the speed of this shift in public opinion can only be explained as a result of a sweeping social movement for LGBT rights, led by members of the LGBT community: members themselves emerging 'out of the closet' and finding their voice on the public stage.

Similar social movements have transformed the fields of mental health and addiction recovery, where formerly stigmatised groups have collectively organised for their rights. Sometimes referred to as the 'recovery movement' (Best and Lubman, 2012), groups of advocates for 'service users' and 'disability rights' have played crucial roles in advocating for patient rights in the health care system, working to reduce discrimination against individuals struggling with a variety of health issues, but especially humanising individuals with formerly stigmatised health needs. In a transformative essay calling for the development of a 'recovery movement', William White (2000) wrote:

> The central message of this new movement is not that 'alcoholism is a disease' or that 'treatment works' but rather that permanent recovery from alcohol and other drug-related problems is not only possible but a reality in the lives of hundreds of thousands of individuals and families.

As a result of this organising, there has been a discernible backlash against professionalised, pathologising medical treatments in favour of support for grassroots mutual-aid recovery communities (see e.g. Barrett *et al.*, 2014).

I see this as an inevitable next step on the journey for the desistance idea, as that concept moves from the Ivory Tower to the professional world of probation and prisons, back to the communities where desistance takes place. Indeed, something like a desistance movement (although it would never label itself this) is already well under way across jurisdictions like the US and the UK, partially as an inevitable outcome of the arresting and convicting of so many people. Today it is estimated that around 70 million Americans have some type of criminal record – roughly the same number as have university degrees. Moreover, the ready availability of these records (complete with mugshot pictures and other identifying information) on the Internet has forced millions of these individuals 'out of the closet' against their will (see Lageson, 2016). It is no wonder then that, even in conservative voting regions of the Midwest (so-called 'red' states), there has been widespread popular support for 'second chance' legislation like efforts to 'ban the box' enquiring about criminal records from applications for public employment. As with any other dramatic change in legislation, these efforts have been led by grassroots organisations, in this case drawing on ex-prisoner activists themselves.

All of Us or None (AOUON) is one such group. Based in California, AOUON is a national organising initiative of formerly incarcerated persons and persons in prison. On its website and in its brochure, this organisation states that: 'Advocates have spoken for us, but now is the time for us to speak for ourselves. We clearly have the ability to be more than the helpless victims of the system.'[2] Another prominent example on the east coast is the organisation Just Leadership USA (JLUSA – say it aloud) led by Glenn E. Martin. Martin, an ex-prisoner and formerly a leader in the wounded healer-based Fortune Society organisation in New York, founded JLUSA with a mission to cut the number of people

---

[2] http://www.allofusornone.org/about.html

in prison in the US by half by 2030. Already JLUSA has been a leading voice trying to secure the closure of the scandal-ridden Rikers Island jail facility in New York. Interestingly, one of the core weapons such groups utilise is their personal self-narratives. Martin, for instance, has said:

> We [at JLUSA] use that narrative to discuss the system, telling the truth about race and class discrimination in a way that helps people see how the reality of criminal justice does not match up to their ideas about either justice or fairness. People respond to anecdotes. You may forget data but you don't forget stories. (Bader, 2015)

Similar dynamics have seen the emergence of equally prominent and successful ex-prisoner groups in the United Kingdom. On its website, the national charity UNLOCK points out that there are an estimated 11 million people in the UK with a criminal record – numbers that suggest a near necessity for a social movement.[3] UNLOCK seeks to provide 'a voice and support for people with convictions who are facing stigma and obstacles because of their criminal record'. Another ex-prisoner-led organisation that has grown with remarkable speed in the UK is User Voice, founded in 2009 by former prisoner and best-selling author Mark Johnson. User Voice has argued that the key to improving rehabilitation is to give prisoners themselves more power to influence how prisons operate. More than a slogan, User Voice has been able to put this vision into reality with its elected prisoner councils (Schmidt, 2013) that can currently be found across 30 prisons in the UK.

Of course, Ireland has a longer standing and more complicated relationship involving ex-prisoner activists, considering how many of the country's early leaders spent time in British gaols for their roles in the revolution that led to the founding of the Republic. In the north of Ireland, politically motivated ex-prisoner groups on all sides of the conflict (loyalist, republican, and various splinter groups) have formed long-lasting and successful mutual-aid and activist organisations to campaign for ex-prisoner rights and support struggling communities (Dwyer and Maruna, 2011; McEvoy and Shirlow, 2009). The link to desistance with such groups is tenuous and controversial, of course, as their membership is explicitly limited to those incarcerated for political reasons.

Still, like the New Recovery Movement, all these groups recognise that there is a 'common bond' between all persons who are formerly

---

[3] http://www.unlock.org.uk/

incarcerated and that 'helping "the brothers" was essential for continued group identity' (McAnany *et al.*, 1974: 28). By providing a supportive community and a network of individuals with shared experiences, these groups can be interpreted as transforming an ostensibly individual process into a social movement of sorts (Hamm, 1997). Thinking of desistance in this way shifts the lens away from individual journeys to a much more collective experience, drawing attention to the macro-political issues involved in crime, justice and reintegration in ways that are often masked in the typical medical language of treatment and rehabilitation.

Importantly, none of these organisations see their primary mission as involving desistance in any way, and few even use that word. For the most part, they are not rehabilitation organisations and typically do not get involved in offering treatment programmes or the like. Instead, they advocate for criminal justice reforms, in particular by 'breaking through social prejudice' (Siegel *et al.*, 1998: 6). Yet, ironically, the work they do (whether intended to be desistance-based or not) certainly does support desistance. Indeed, it might be the most important work they could do if they wanted to promote desistance. After all, the primary challenge that ex-prisoners face in reintegrating into society is stigma (Maruna, 2001) and although each person manages stigma differently, it is experienced collectively.

In research among other stigmatised groups, Wahl (1999: 476) found that 'involvement in advocacy and speaking out are self-enhancing, and the courage and effectiveness shown by such participation help to restore self-esteem damaged by stigma' (see also Shih, 2004). In addition, like getting involved in helping behaviours as 'wounded healers', becoming involved in advocacy-related activities can give meaning, purpose, and significance to a formerly incarcerated person's life (Connett, 1973: 114). For example, Nicole Cook, a graduate of ReConnect – the Women in Prison Project's advocacy and leadership training programme for formerly incarcerated women – states that:

> One thing I recognize as an advocate: people respect you more when they see you are not afraid to stand up for what you believe in … Now you have a chance to prove to yourself and to everyone else, that 'I made it—I was incarcerated, I felt worthless, hopeless, and all the other negative emotions you go through when in prison'. To transform into a person who speaks out and advocates for other women, that's awesome. (Correctional Association of New York, 2008: 5)

Conclusions: 'Nothing about us without us'

In this paper, I have tried to sketch three distinct phases of the desistance idea. First, there were the academic contributions. Research on individual change in criminality posed a clear and important challenge to traditional academic approaches to criminological research, and situating crime in 'a life-course perspective' became perhaps the most dominant new paradigm in the field in the 1990s. Second, these insights were followed by impacts on criminal justice practice in the real world. Desistance moved from an Ivory Tower jargon word to a style of delivering justice-related interventions that foregrounded the strengths and expertise of ex-prisoners themselves to act as mentors, 'wounded healers', and architects of their own 'rehabilitation'. Finally, in the coming third phase, I would argue that the real 'action' in desistance will move away from both the universities and the criminal justice agencies and be centred around grassroots activist and advocacy work from organisations like JLUSA and User Voice.

Importantly, though, I am not arguing that there is no longer any role for traditional criminological research on individual desistance trajectories. In fact, even from this new, social movement lens, important questions remain about individual differences in coping and adaptation. In this regard, Thomas LeBel's (2009; LeBel et al., 2015) ground-breaking research provides probably the ideal example of work that recognises desistance as a social movement, but also seeks to understand individual outcomes. For instance, with a sample of over 200 ex-prisoners, his survey research found that having an 'activist' or 'advocacy' orientation is positively correlated with psychological well-being and, in particular, satisfaction with life as a whole. Moreover, he found a strong negative correlation between one's advocacy/activism orientation and criminal attitudes and behaviour. This indicates that advocating on behalf of others in the criminal justice system may help to maintain a person's prosocial identity and facilitate ongoing desistance from crime.

That said, advocacy work is not for everyone and it is certainly not without risk. Writing about activists from other stigmatised groups over half a century ago, Goffman (1963: 114) noted that:

> The problems associated with militancy are well known. When the ultimate political objective is to remove stigma from the differentness, the individual may find that his very efforts can politicize his own life, rendering it even more different from the normal life initially

denied him—even though the next generation of his fellows may greatly profit from his efforts by being more accepted. Further, in drawing attention to the situation of his kind he is in some respects consolidating a public image of his differentness as a real thing and of his fellow-stigmatized as constituting a real group.

Such questions will be essential as the ex-prisoner movement grows internationally.

On the other hand, I would argue that traditional research practices will inevitably have to adapt in important ways to this new environment in order to remain true to the desistance idea. That is, research endeavours will need to move out of the Ivory Tower and become more inclusive, collaborating with community organisations and involving research 'subjects' themselves in the data analysis and interpretation. For instance, activists in the disability rights and neuro-diversity movements have insisted that in the future there be 'nothing about us without us' (*Nihil de nobis, sine nobis* in Latin) (Charlton, 1998). They argue that if experts want to convene a conference on the problem of clinical depression or prepare a report on the prevention of autism, the voices of those who have been so labelled need to be represented in the discussion. Important policy-level discussions of individual lives should not take place 'behind the backs' of the very communities that are impacted by the policies, and the inclusion of such voices has led to impressive progress in the scientific and public understanding of these issues.

Indeed, this is a natural stage in the study of any scientific topic involving human beings. Eighty years ago, it would have been possible to have a government panel or expert conference on the subject of 'the negro family' in the United States that featured only the voices of white experts. Today, such a thing would seem an absurdity and an offence. Not that white scientists cannot make important contributions to such discussions: they can, and do, but were they to do so without collaboration and dialogue with African Americans themselves, their analyses would inevitably involve a process of 'othering' and dehumanisation. Likewise, for decades, outsider experts would write about homosexuality sometimes as a 'crime', sometimes as a 'sin', sometimes as a 'disease', but always as the actions of the deviant 'other.' Today, such voices can still be heard, of course, but they are always in competition with the far more widely recognised experts on LGBT issues who work alongside or from within diverse LGBT communities.

Importantly, the 'nothing about us without us' revolution is already starting to emerge in academic criminology in the form of a movement called Convict Criminology (Richards and Ross, 2001). Largely consisting of ex-prisoner academics, Convict Criminology has made important strides in changing the way in which crime and justice are researched in both the US (see Jones *et al.*, 2009) and the UK (Earle, 2016). Even criminology education at the undergraduate and graduate levels has recognised the need for a move away from 'behind their backs' thinking. Prison-based university courses involving prisoner students and university students learning about criminology together have spread rapidly throughout the US, UK and beyond as a result of the dynamic work of organisations like Inside Out (Pompa, 2013) and Learning Together (Armstrong and Ludlow, 2016). These courses have had a transformative impact on the way both students and university lecturers think about how criminology should be learned, while also opening important opportunities for prisoners to realise their own strengths and academic potential.

Far from undermining mainstream criminological teaching and research practices, such developments should breathe new life into the traditional classroom or research enterprise, making criminology more relevant, up to date and (indeed) defensible as an academic area of study. That is, inclusive social science is *good* social science. As such, I think the future is going to be a bright one for desistance research, and I look forward to working with the next generation of thinkers (and doers) in this area.

References

Abrams, L.S. and Terry, D. (2017), *Everyday Desistance: The Transition to Adulthood Among Formerly Incarcerated Youth*, New Brunswick, NJ: Rutgers University Press

Armstrong, R. and Ludlow, A. (2016) 'Educational partnerships between universities and prisons: How learning together can be individually, socially and institutionally transformative', *Prison Service Journal*, May, no. 225, pp. 9–17

Bader, E.J. (2015), *Formerly Incarcerated Activist Leads Organization to Mobilize Hearts and Minds for Decarceration*, available at http://www.truth-out.org/news/item/32097-formerly-incarcerated-activist-leads-organization-to-mobilize-hearts-and-minds-for-decarceration (accessed 1 April 2017)

Barr, N. and Montgomery, G. (2016), 'Service user involvement in service planning in the criminal justice system: Rhetoric or reality?', *Irish Probation Journal*, vol. 13, pp. 143–155

Barrett, D., Benson, J., Foster, R. and Leader, A. (2014), 'Prosper: A social movement approach to mental health', *Mental Health and Social Inclusion*, vol. 18, no. 4, pp. 188–197

Baumer, E.P., O'Donnell, I. and Hughes, N. (2009), 'The porous prison: A note on the rehabilitative potential of visits home', *Prison Journal*, vol. 89, no. 1, pp. 119–126

Best, D. and Lubman, D. I. (2012), 'The emergence of a recovery movement for alcohol and drug dependence', *Australian and New Zealand Journal of Psychiatry*, vol. 46, no. 6, p. 586

Bottoms, A. and Shapland, J. (2010), 'Steps towards desistance among male young adult recidivists', in S. Farrall *et al.* (eds), *Escape Routes: Contemporary Perspectives on Life After Punishment* (pp. 43–80), London: Routledge

Bottoms, A., Shapland, J., Costello, A., Holmes, D. and Muir, G. (2004), Towards desistance: Theoretical underpinnings for an empirical study, *Howard Journal of Crime and Justice*, vol. 43, no. 4, 368–389

Burnett, R. and Maruna, S. (2006), 'The kindness of prisoners: Strength-based resettlement in theory and in action', *Criminology and Criminal Justice*, vol. 6, pp. 83–106

Charlton, J.I. (1998), *Nothing About Us Without Us: Disability Oppression and Empowerment*, Berkeley, CA: University of California Press

Connett, A.V. (1973) 'Epilogue', in R.J. Erickson *et al.* (eds), *Paroled but Not Free* (pp. 106–116), New York: Behavioral Publications

Correctional Association of New York (2008), 'An advocate's perspective: The Coalition for Women Prisoners' 2008 Advocacy Day', *CA Bulletin*, spring/summer, pp. 4–5

Day, A. and Casey, S. (2013), 'Interview with Timothy Leo, Chief Psychologist of the Singapore Prison Service', in J. Singer *et al.* (eds), *Trends in Correctons: Interviews with Corrections Leaders Around the World* (pp. 159–168), Boca Raton, FL: CRC Press

Dwyer, C. and Maruna, S. (2011), 'The role of self-help efforts in the reintegration of "politically motivated" former prisoners: Implications from the Northern Irish experience', *Crime, Law and Social Change*, vol. 55, no. 4, 293–309

Earle, R. (2016), *Convict Criminology: Inside and Out*, Bristol: Policy Press

Eglash, A. (1958–59), 'Adults anonymous: A mutual help program for inmates and ex-inmates', *Journal of Criminal Law and Criminology*, vol. 49, pp. 237–245

Fader, J.J. (2013), *Falling Back: Incarceration and Transitions to Adulthood Among Urban Youth*, New Brunswick, NJ: Rutgers University Press

Farrall, S. (2004), 'Social capital and offender reintegration: Making probation desistance focused', in S. Maruna and R. Immarigeon (eds), *After Crime and Punishment: Pathways to Offender Reintegration* (pp. 57–82), Cullompton, UK: Willan

Farrington, D.P. (1992), 'Explaining the beginning, progress, and ending of antisocial behavior from birth to adulthood', in J. McCord (ed.), *Advances in Criminological Theory: Vol. 3. Facts, Frameworks, and Forecasts*, New Brunswick, NJ: Transaction

Gendreau, P., Smith, P. and French, S. (2006), 'The theory of effective correctional intervention: Empirical status and future directions', in F.T. Cullen *et al.* (eds), *Taking Stock: The Status of Criminological Theory*, vol. 15 of *Advances in Criminological Theory*, New Brunswick, NJ: Transaction

Goffman, E. (1963), *Stigma: On the Management of Spoiled Identity*, Englewood Cliffs, NJ: Prentice Hall

Halsey, M. (2006), 'Negotiating conditional release: Juvenile narratives of repeat incarceration', *Punishment and Society*, vol. 8, pp. 147–181

Hamm, M.S. (1997), 'The offender self-help movement as correctional treatment', In P. Van Voorhis *et al.* (eds), *Correctional Counseling and Rehabilitation* (4th ed., pp. 211–224), Cincinnati, OH: Anderson Publishing

Hart, E.L. and van Ginneken, E.F. (eds) (2017), *New Perspectives on Desistance: Theoretical and Empirical Developments*, London: Springer

Healy, D. (2010), *The Dynamics of Desistance: Charting Pathways Through Change*, Cullompton, UK: Willan

Healy, D. and O'Donnell, I. (2008), 'Calling Time on Crime: Motivation, Generativity and Agency in Irish Probationers', *Probation Journal*, vol. 55, pp. 25–38

Jones, R.S., Ross, J.I., Richards, S.C. and Murphy, D.S. (2009), 'The first dime: A decade of convict criminology', *Prison Journal*, vol. 89, pp. 151–171

King, S. (2013), 'Early desistance narratives: A qualitative analysis of probationers' transitions towards desistance', *Punishment and Society*, vol. 15, no. 2, pp. 147–165

Lageson, S.E. (2016), 'Found out and opting out: The consequences of online criminal records for families', *Annals of the American Academy of Political and Social Science*, vol. 665, no. 1, pp. 127–141

Laub, J. and Sampson, R. (2001), 'Understanding desistance from crime', *Crime and Justice: A Review of Research*, vol. 28, pp. 1–70

LeBel, T. (2007), 'An examination of the impact of formerly incarcerated persons helping others', *Journal of Offender Rehabilitation*, vol. 46, no. 1/2, pp. 1–24

LeBel, T. (2009), 'Formerly incarcerated persons' use of advocacy/activism as a coping orientation in the reintegration process', in B. Veysey *et al.* (eds), *How Offenders Transform Their Lives*, Cullompton, UK: Willan

LeBel, T., Richie, M. and Maruna, S. (2015), 'Helping others as a response to reconcile a criminal past: The role of the wounded healer in prisoner reentry programs', *Criminal Justice and Behavior*, vol. 42, no. 1, pp. 108–120

Leverentz, A.M. (2014), *The ex-prisoner's dilemma: How women negotiate competing narratives of reentry and desistance*, New Brunswick, NJ: Rutgers University Press

MacKenzie, D.L. (2012), 'Preventing future criminal activities of delinquents and offenders', *The Oxford Handbook of Crime Prevention* (p. 466), Oxford: Oxford University Press

Marsh, B. (2011), 'Narrating desistance: Identity change and the 12-step script', *Irish Probation Journal*, vol. 8, pp. 49–68

Marsh, B. and Maruna, S. (2016), 'Desistance and restorative justice: Learning from success stories of Northern Ireland's Youth Justice Agency', *Restorative Justice*, vol. 4, no. 3, pp. 369–387

Maruna, S. (2001), *Making Good: How Ex-convicts Reform and Rebuild their Lives*, Washington, DC: American Psychological Association

Maruna, S. and King, A. (2009), 'Once a criminal, always a criminal? "Redeemability" and the psychology of punitive public attitudes', *European Journal of Criminal Policy and Research*, vol. 15, pp. 7–24

Maruna, S. and LeBel, T. (2003), 'Welcome home? Examining the re-entry court concept from a strengths-based perspective', *Western Criminology Review*, vol. 4, no. 2, pp. 91–107

Maruna, S., McNeill, F., Farrall S. and Lightowler C. (2012), 'Desistance research and Probation practice: Knowledge exchange and co-producing evidence-based practice models', *Irish Probation Journal*, vol. 9, pp. 42–54

McAnany, P.D., Tromanhauser, E. and Sullivan, D. (1974), *The Identification and Description of Ex-offender Groups in the Chicago Area*, Chicago: University of Illinois

McEvoy, K. and Shirlow, P. (2009), 'Re-imagining DDR: Ex-combatants, leadership and moral agency in conflict transformation', *Theoretical Criminology*, vol. 13, pp 31–59

McNeill, F. (2006), 'A desistance paradigm for offender management', *Criminology and Criminal Justice*, vol. 6, no. 1, pp. 39–62

Mieszkowski, K. (1998), 'Mimi Silbert: She helps them help themselves', *Fast Company*, vol. 15, pp. 54–56

Ministry of Justice (2010), *Green Paper Evidence Report. Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, London: HMSO

Paternoster, R. and Bushway, S. (2010), 'Desistance and the "feared self": Towards an identity theory of criminal desistance', *Criminology*, vol. 99, no. 4, pp. 1103–1156

Perrin, C. and Blagden, N. (2014), 'Accumulating meaning, purpose and opportunities to change "drip by drip": The impact of being a listener in prison', *Psychology, Crime and Law*, vol. 20, no. 9, pp. 902–920

Pompa, L. (2013), 'One brick at a time: The power and possibility of dialogue across the prison wall', *Prison Journal*, vol. 93, no. 2, pp. 127–134

Porporino, F. (2010), 'Bringing sense and sensitivity to corrections: From programs to "fix" offenders to services to support desistance', in J. Brayford *et al.* (eds), *What Else Works? Creative Work with Offenders*, Cullompton: Willan

Richards, S.C. and Ross, J.I. (2001), 'Introducing the new school of convict criminology', *Social Justice*, vol. 28, no. 1, pp. 177–190

Rocque, M. (2017), *Desistance from Crime: New Advances in Theory and Research*, New York: Springer

Sampson, R.J. and Laub, J. (1993) *Crime in the Making: Pathways and Turning Points Through Life*, Cambridge, MA: Harvard University Press

Schmidt, B.E. (2013), 'User voice and the prison council model: A summary of key findings from an ethnographic exploration of participatory governance in three English prisons', *Prison Service Journal*, vol. 209, pp. 12–17

Seaman, V. and Lynch, O. (2016), '"Learning the basics of how to live": Ex-prisoners' accounts of doing desistance', *Irish Probation Journal*, vol. 13, pp. 65–83

Shih, M. (2004) 'Positive stigma: examining resilience and empowerment in overcoming stigma', *Annals of the American Academy of Political and Social Sciences*, vol. 591, pp. 175–185

Siegel, K., Lune, H. and Meyer, I.H. (1998), 'Stigma management among gay/bisexual men with HIV/AIDS', *Qualitative Sociology*, vol. 21, no. 1, pp. 3–23

US Department of Justice (2011), *Second Chance Act Demonstration Field Experiment: Fostering Desistance Through Effective Supervision*, available at https://www.bja.gov/Funding/12SecondChanceDFEsol.pdf (accessed 16 August 2017)

Vaughan, B. (2007), 'The internal narrative of desistance', *British Journal of Criminology,* vol. 47, pp. 390–404

Veysey, B.M., Martinez, D.J. and Christian, J. (2013), '"Getting out": A summary of qualitative research on desistance across the life course', in *Handbook of Life-Course Criminology* (pp. 233–260), New York: Springer

Wahl, O.F. (1999), 'Mental health consumers' experience of stigma', *Schizophrenia Bulletin*, vol. 25, pp. 467–478

Weaver, B. (2015), *Offending and Desistance: The Importance of Social Relations*, Abingdon, UK: Routledge

White, W. (2000*), Toward a New Recovery Movement: Historical Reflections on Recovery, Treatment and Advocacy*, paper presented at the Center for Substance Abuse Treatment, Recovery Community Support Program Conference, Alexandria, Virginia

Making the Difference That Makes a Difference: Leading Probation on the Island of Ireland

Cheryl Lamont and Vivian Geiran*

Summary: What does it take to be an effective leader in the public sector, and specifically in probation organisations, today? Why does it matter? Many books and articles focus on the subject of leadership, the changing context and the demands that require leaders to select, at different times, a variety of responses and adopt a range of roles in order to be effective. Since its inception on the island of Ireland, leaders of probation – North and South – have led their organisations through the challenges of their times. This article briefly reviews the wider functions of leadership, provides an overview of the organisations and explores some of the challenges and opportunities for the current leadership of probation, North and South.

Keywords: Leadership, change, management, probation, criminal justice, public sector, challenges, budget, transformation, Ireland, Northern Ireland.

Introduction

Kotter (1999: 10) described *leadership* as: 'the development of vision and strategies, the alignment of relevant people behind those strategies, and the empowerment of individuals to make the vision happen, despite obstacles'. While emphasising the critical role of leadership in organisations, Kotter (1999: 11) was at pains to point out that both *leadership* and *management* functions are important, stating that:

> The fundamental purpose of management is to keep the current system functioning. The fundamental purpose of leadership is to produce useful change, especially non-incremental change … Strong leadership with

* Cheryl Lamont is the Chief Executive of the Probation Board for Northern Ireland (PBNI) (email: Cheryl.Lamont@pbni.gsi.gov.uk). Vivian Geiran is Director of the Probation Service (email: vmgeiran@probation.ie).

no management risks chaos … Strong management without leadership tends to entrench an organisation in deadly bureaucracy.

Other commentators, including Heifetz and Laurie (2011: 77), have advised of the need to see leadership as *more* than the 'prevailing notion … of having a vision and aligning people with that vision … because it continues to treat adaptive situations as if they were technical'. *Adaptive work*, according to Heifetz and Laurie (2011: 57) 'is required when our deeply held beliefs are challenged, when the values that made us successful become less relevant, and when legitimate yet competing perspectives emerge'. Adaptive situations or challenges, from this viewpoint:

> are hard to define and resolve precisely because they demand the work and responsibility of managers and people throughout the organisation. They are not amenable to solutions provided by leaders … [but] require members of the organisation to take responsibility for the problematic situations that face them. (Heifetz and Laurie, 2011: 77)

Examples of technical leadership in probation work can include putting appropriate staffing and other structures in place and ensuring adequate funding, training and supportive infrastructure (e.g. offices and technology) to enable work to be done. Adaptive challenges emerge when fundamental practices are changed, or new priorities or ways of working are introduced.

Leadership, across all the above definitions and manifestations, is no less important in criminal justice organisations, including probation services, than in the private sector, or indeed in any business, enterprise or organisation. This requirement for effective leadership is more of a reality than ever for public-service organisations because of four particular factors:

1. increased expectations on public services in relation to general efficiency, transparency, customer service, strategic alignment, organisational reform, accountability and governance, and improved outcomes for citizens
2. the need for probation organisations in particular to incorporate more evidence-informed interventions (focused on public protection and reduced reoffending) in their practice

3. the heightened value-for-money imperative, particularly that generated in recent times by the economic downturn
4. the increasing expectation of achieving a more joined-up criminal justice system, through better interagency working.

The Council of Europe (2010) has set out, in its European Probation Rules, standards by which probation organisations should carry out their functions. These include basic principles, such as the need for a legislative basis for probation work, accountability, good practice and the highest professional standards. The Rules also require that probation organisations have 'formal policy instructions and rules' and that 'The management [of probation agencies] shall ensure the quality of probation work by providing leadership, guidance, supervision and motivation to staff.'

The authors share the view that while it is important to develop our own individual leadership skills and capacity, it is also critical to maintain a systemic perspective on our own and our organisation's situation, within our respective jurisdictions. There is a clear and established political commitment to cross-border co-operation in a range of governmental responsibilities, including criminal justice.[1]

This, allied to the all-island mobility of some offenders, the shared goals and objectives of our 'business' and the fruitful North–South co-operation established over many decades, is an important imperative for our continued collaboration on the island of Ireland. In this way, we will continue to co-operate on the cross-border assessment and management of offenders, and to learn from and share with each other as leaders and as learning organisations, in order to be the best we can be.

Probation in Northern Ireland

The Probation Board for Northern Ireland (PBNI) is a Non-Departmental Public Body within the Department of Justice. Established in 1982, PBNI's devolved identity as an 'arm's length' agency has enabled it to establish its own purpose and priorities and devise a set of strategic aims and objectives, which includes the ability to fund voluntary and community organisations. PBNI has the leading role in delivering offender rehabilitation in Northern Ireland. It does this by helping people

[1] The Intergovernmental Agreement on Co-operation on Criminal Justice Matters (IGA). See http://www.justice.ie/en/JELR/Pages/criminal_justice_co-operation

who have offended to change their behaviours. The result of such changes is less reoffending with fewer victims.

PBNI staff use their skills and abilities to facilitate rehabilitation and to tackle the root causes of offending. By doing so, they help change lives and contribute to safer communities. Those wide-ranging skills include making professional assessments about addressing risks and influencing positive change to reduce reoffending. PBNI practice is guided by social work principles. Probation Officers in Northern Ireland are registered by the Northern Ireland Social Care Council[2] and develop respectful and honest relationships with individuals who offend as well as promoting the rights of victims. Probation staff work closely with colleagues from psychology, corporate services and other professional backgrounds to provide an effective and evidence-based service to people who offend.

The operating environment for PBNI has changed over recent years. PBNI's work is now focused, due to legislative requirements, primarily on adults who have offended and more serious offenders. The Criminal Justice Order (2008) had significant implications for PBNI, including increased responsibility in post-custodial supervision through the introduction of public protection sentences. It also strengthened the supervisory process by introducing the power to use curfews and electronic monitoring, as well as putting the Public Protection Arrangements Northern Ireland (PPANI) on a statutory footing (Bailie, 2008).

Collaborative working has also developed significantly over the past 15 years, partly in response to the legislative requirements outlined but also, more recently, because of budget reductions and initiative-based funding streams. In Northern Ireland, this has seen operational projects established such as Reducing Offending in Partnership, a partnership that tackles prolific offending (Doherty and Dennison, 2013), and the Multi-Agency Risk Assessment Conference (MARAC, n.d.), which addresses domestic abuse. The focus of this partnership work is on ensuring improved sharing of information to enable organisations to better manage risk reduction together. In these changed circumstances, there are very clear opportunities and challenges for PBNI.

---

[2] NISCC manages standards in social work by registering social workers, setting standards for their conduct and practice and supporting their professional development https://niscc.info/

Probation in Ireland

The Probation Service is an agency of the Department of Justice and Equality, although it operates independently, in its delivery of operational services, in the community and in prisons. The Director is a member of the Department of Justice and Equality's Management Board and reports to the Secretary General. The Probation Service is the lead agency in the assessment, supervision and rehabilitation of offenders in Ireland. As in Northern Ireland, probation practice is guided and informed by social work skills and values. While it is not compulsory for Probation Officers to be registered as social workers with CORU (the Health and Social Care Professionals Council),[3] most are qualified social workers.[4] Probation Service staff are also civil servants.

The history of the Probation Service has been documented in published papers by Geiran (2005) and McNally (2007, 2009). While probation in Ireland has existed since before the foundation of the State, over 100 years, it was not until the second half of the twentieth century (particularly from the 1960s onwards) that what we now understand as the Probation Service evolved and developed in any recognisable way. The Probation Service is a nationwide service assessing and working with offenders in the community and in custody. Staff work with clients who have committed offences all along the spectrum of seriousness, across all age groups, and carry specific responsibilities under the Children Act, 2001 for work with young people who offend.

In recent years, there has been an increased emphasis on multidisciplinary and interagency working in offender assessment and management, to maximise collective effectiveness, particularly in reducing reoffending and improving public safety. Examples of this interagency co-operation include the Sex Offender Risk Assessment and Management (SORAM) (Wilson *et al.*, 2013) structure, the co-located (joint prison–Probation staffed) Community Return Unit, based in Probation Service Headquarters in Dublin, and the Joint Agency Response to Crime (JARC).[5]

JARC incorporates inputs from An Garda Síochána (police), prisons, Probation, and Department of Justice and Equality, focusing on intensive, targeted interagency management of prolific offenders, particularly those with a history of committing burglaries and violent crimes. These

---

[3] https://www.coru.ie/

[4] The Criminal Justice (Community Sanctions) Bill, 2014, proposes that Probation Officers in Ireland be registered social workers. http://bit.ly/N2BvAp

[5] See the Joint Strategy on the Management of Offenders, available at http://bit.ly/2fE0lZA

interagency initiatives are underpinned by joint strategies involving the Department of Justice and Equality and the participating services (Department of Justice & Equality *et al*., 2016; Irish Prison Service and Probation Service, 2015).

For the greater part of the past decade, the Probation Service has had to deal with, and operate in, an environment characterised by economic recession, the accompanying budget cuts, and a moratorium on staff recruitment. The justice sector in general has been subject to close examination and critique over the same period in relation to a number of issues, including leadership and governance. A key milestone within this discourse was the 2014 review of the Department of Justice and Equality and its agencies, known as the 'Toland[6] Report' (Department of Justice and Equality, 2014a).

The report of the Strategic Review of Penal Policy (Department of Justice and Equality, 2014b), published by the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, set out a roadmap for penal policy in Ireland for the foreseeable future. It emphasised the need to promote and increase use of supervised community sanctions, including Probation and community service. These developments followed years of Irish criminal justice policy characterised by some as incorporating a perceived 'unchallenged non-accountability' (O'Mahony, 1996: 272) with 'poverty of thought' (O'Donnell, 2005: 102) and 'drifting along … with reform slow and piecemeal' (Rogan, 2011: 214).

Challenges for probation, North and South

The past decade has posed unique socio-political-economic challenges for probation. These have included political, economic and budgetary issues, as well as wider issues of workload demands and legitimacy, among others. The uncertain economic conditions have been described by Kelly and Hayes (2010: xviii–xix) as 'turbulent times' with 'powerful forces for change … the corporate equivalent of headwinds … which must be faced and navigated by leaders and those they lead'; these authors state that the current leadership challenge is about: 'learning to fly with such an all-embracing turbulence'. This would seem an appropriate description of the conditions and context, economic and otherwise, faced by criminal justice and other organisations, including Probation services, in recent and current times.

---

[6] Named after Kevin Toland, chair of the Review Group.

Political landscape

Operating against a backdrop of constant political change in Northern Ireland has been a major challenge for PBNI. In January 2017, after a decade of power-sharing government, the political institutions in Northern Ireland collapsed. This meant that the Northern Ireland Executive, including the then Minister of Justice, had to stand down, leading to an extended period of political uncertainty. During her tenure, the Minister of Justice had articulated proposals for reform in a number of important justice policy areas. The Northern Ireland Assembly Justice Committee had indicated policy areas that it wanted to see prioritised, including domestic violence and crimes against the most vulnerable. A Programme for Government had been negotiated, but that was still only in draft form at the time of the collapse.

Those policy changes and priorities could not be implemented during the period of extended political talks to resolve issues. Many significant policy decisions have been further postponed, to await a political resolution. As civil servants are, on an interim basis, administering Northern Ireland's finances and policy decisions, it is difficult for organisations to plan and prioritise service delivery. PBNI needs to develop its Corporate Plan during this period. The PBNI Board's strategic priorities should be linked directly to the Programme for Government. However, as that remains in draft form, it difficult to do so. Indeed, the Lord Chief Justice, Sir Declan Morgan, was moved to speak publicly about the impact of the political uncertainty on justice bodies:

> These are uncertain times. The current political situation, and in particular the delay in setting budgets, inevitably creates a difficult backdrop for front line organisations such as the Probation Board and our third sector partners. (*Belfast Telegraph*, 2017)

The other political development likely to prove challenging for probation work on the island of Ireland is the decision of the United Kingdom to leave the European Union – so-called 'Brexit'. This raises concerns, including for those working in criminal justice, about how existing public protection and community safety measures will be managed in the future. Probation, North and South, has worked extremely hard to develop links with justice partners in the neighbouring jurisdiction and to ensure effective management of offenders who move from one

jurisdiction to the other. It is essential that these links and processes are sustained and developed, notwithstanding 'Brexit', to ensure that there is no reduction in the efficiency of cross-border management of offenders.

North–South co-operation in Probation
The two Probation organisations on the island have a long and extensive history of cross-border co-operation (Doran, 2015). As part of the Intergovernmental Agreement on Co-operation on Criminal Justice Matters (IGA),[7] a Public Protection Advisory Group (PPAG) was established in 2008 (Donnellan and McCaughey, 2010). The PPAG is jointly chaired by the two Directors of Probation and includes representation from the police, prisons and justice departments.

The PPAG meets twice each year and agrees a set of objectives reported to both Ministers as part of the Intergovernmental Agreement (Doran, 2015: 43–44). It has proved to be very successful in taking cross-border co-operation to a new level. The links between the two Probation services have served as an exemplar for co-operation for other criminal justice services. Over the past six years, the PPAG has organised annual seminars to showcase good practice, which have received ministerial support, North and South, and has hosted the annual launch of *Irish Probation Journal*, a joint publication by the two Probation services. It is imperative that this work continues in the face of changes in the UK's, and Northern Ireland's, relationship with their EU partners.

Budget
The Probation Service budget has recently seen increases, after several years – during the economic downturn – of reduced budgets and a moratorium on recruitment, in common with the wider civil and public services in Ireland. It was against that backdrop of budgetary cuts that a fundamental review and reorganisation of the Probation Service structure was undertaken (Geiran, 2012). Those budget cuts and reduction in numbers of serving staff, over several years, also saw rationalisation in spending on the Service's estate and operational expenditure.

Meanwhile, reductions in public expenditure in Northern Ireland have affected PBNI. Since 2010/11, PBNI's budget has been reduced by 17.6% (£3.5m), although some limited, additional short-term funding has been provided for specific projects and initiatives. To date, the

---

[7] See http://www.justice.ie/en/JELR/Pages/criminal_justice_co-operation

protection of PBNI frontline services has been prioritised and back-office costs have been reduced.

At the start of the business year 2017–18, Government Departments in Northern Ireland were directed to plan for a further 4% reduction on the current baseline that, for PBNI, with existing unavoidable pressure, means a potential reduction of 6.8%. These budget reductions mean that organisational structures and service priorities must be revised to ensure alignment with available resources. Probation practice has to change fundamentally.

Maintaining services and staff morale, with budget cuts of 17.6% over five years, is a challenge. The closure of Probation office facilities, North and South, including up to 33% of the PBNI estate between September 2013 and March 2017, has enabled more efficient service delivery as well as savings.

Probation, North and South, is a 'demand-led' service. Demand depends on a number of factors, including the levels and nature of crime and offending, and – especially – decisions by the courts to refer offenders to Probation for assessment and supervision. In addition, from time to time, certain categories of offending (e.g. burglary or violent offences) receive heightened public and political attention, and there are calls for greater focus by relevant agencies, including Probation.

In both jurisdictions workloads have remained reasonably steady in recent years, with small fluctuations (Probation Service, 2015–2016; PBNI, 2016–17). However, there is no evidence that the complexity of probation work across the island, as reflected in persons presenting with poor mental health and substance misuse issues, is diminishing. Offenders at high risk of reoffending and of causing serious harm, and offenders with complex needs, require a comprehensive and resource-intensive response if we are to effectively reduce reoffending and help make our communities safer. The level of commitment and resources necessary to manage and reduce such risk needs to be maintained.

Sometimes, 'new' categories of offending such as cybercrime emerge or assume greater prominence or priority. There are also new obligations, for example through the Fresh Start Agreement[8] for PBNI to manage oversight of offenders sentenced for offences under terrorism legislation and to develop diversion responses to paramilitary activity.

---

[8] *A Fresh Start: The Stormont Agreement and Implementation Plan* builds on previous political agreements in Northern Ireland. It contains plans to combat paramilitary activity. See http://bit.ly/1V6IcRs

Responding to challenges/grasping opportunities

We suggest that a number of leadership approaches, as well as contextual factors, have been significant in effective responses to recent and current challenges faced by our respective organisations. New responses will also be required to deal with the emerging and future challenges. Although Chief Executives are not the only significant leaders in any organisation, they have a particular role in managing effective organisational change (Kotter, 1999). The authors have undertaken formal management training and qualifications[9] to inform and support their leadership.

Aside from individual capability and approaches, some effective responses involve being proactive and grasping opportunities when they present. 'Great opportunities don't come around too often,' and sometimes a downturn can 'lead to a fantastic opportunity … [for] the rediscovery of the organisation as a team and you as a team leader' according to van Dijk (2010: 111). The Probation Service restructuring (Geiran, 2012) was conducted for a range of reasons, including implementation of better practice. Nevertheless, the change involved was, if anything, enabled – as much as required – by the then worsening economic context, which acted in the first instance as a significant driver for improved efficiencies.

Scarcer availability of more contested resources can contribute to sharper innovation in service delivery. In April 2015, PBNI was successful in an Executive Change Fund (2015) bid. The aims and objectives of the Executive Change Fund are to encourage innovation in the public sector; improve integration and collaboration between Departments, its related agencies, the private sector and the third sector; support a decisive shift towards preventive spending with a focus on improving outcomes for citizens; and support transformational change required to sustain medium- to long-term efficiency measures. The funding enabled development and delivery of a highly successful and independently evaluated innovative project known as Reset (Hamilton, 2016), an adult mentoring project which was delivered in partnership with NIACRO,[10] a voluntary sector partner.

[9] Cheryl Lamont is a qualified social worker registered with the NI Social Care Council. She also holds an MBA in Business Administration and a BA Honours in Social Work. Vivian Geiran is a qualified social worker, registered with CORU (Health and Social Care Professionals Council), and has a Master's degree in social work and social policy, as well as a diploma in leadership and management.

[10] NIACRO, Northern Ireland Association for the Care and Resettlement of Offenders, https://www.niacro.co.uk/

In the South, the innovative interagency Community Return programme (McNally and Brennan, 2015), providing supervised early release for prisoners serving between one and eight years' imprisonment, was introduced in 2011, specifically as an alternative response to a decision not to build a new 'super-prison' in North County Dublin, due to the deteriorating economic climate.

New initiatives for women and for young people, and the maximisation of the rehabilitative potential of Community Service Orders ('integrated community service'), are being progressed in response to the recommendations of the Penal Policy Review Report (Department of Justice and Equality, 2014b). Such changes, combined with the implementation, North and South, of videoconferencing and the development of e-learning and revised Practice Standards, mean that Probation staff are more able to deliver on priorities. The senior leadership is proactive in seeing possibilities in adversity, and mobilising – and sometimes reconfiguring or redirecting – available resources and strategic priorities to achieve worthwhile change.

Changes of personnel in the (Probation Service) Director and (PBNI) Chief Executive roles, in August 2012 and September 2013 respectively, provided opportunities for new approaches to extend engagement, communication and co-operation with a range of key stakeholders. Both organisations have established clear directions, through strategic planning (Probation Service, 2015; PBNI, 2017) and by aligning the workforce to key priorities through open, transparent and visible leadership. Such measures also include the establishment of an Executive Management Team in both organisations, enabling more effective, timely and robust decision-making capabilities in line with increasing demands from the respective Justice Departments and others. More streamlined and engaged senior management teams have thus been able to focus on the operational delivery priorities, as well as contributing as required to strategic initiatives.

Key features of effective leadership include openness, collaboration, flexibility and commitment. These are visible, in both organisations, through an increase in the level of general openness and through greater focus on communication, internally and externally. For example, communiques from the Chief Executive, Organisational Development Updates for staff and a range of stakeholder newsletters were introduced by PBNI to explain to the whole organisation and stakeholders the changes that were taking place. The Probation Service introduced

monthly newsletters for staff and external partners and stakeholders from January 2013.

Other initiatives include local team visits and a series of staff engagement events which are part of a considered communication strategy enabling the delivery of key corporate messages and providing an important opportunity to listen to staff concerns.

Successful implementation of specific change programmes often benefits from structured approaches to the change process. As Woodman (2014: 470) has pointed out, 'there is always a "diagnosis" before any real organisational change … there is no such thing as a model-independent reality … even if it is nothing more than the thought: "Things could be better".'

There are a number of what have been described as '*n*-step guides for change' (Cummings *et al.*, 2016: 49). These include Kotter's (1996) eight-step model, and Schein's (2010) model of change, for example. Many of these '*n*-step' models claim heritage back to Lewin (1951), although a supposed origin in change as a three-step process (CATS) is strongly rebutted by Cummings *et al.* (2016). Nevertheless, that is not to deny their applicability in organisational change scenarios such as are experienced by probation organisations. Geiran (2012) provides one example of this approach, in action, in the probation setting.

Leading for the future

According to the Centre for Effective Services (2016: 48), 'There has been a focus in public service reforms globally on increased and improved performance measurement', to find out what works, determine relevant competencies required and support democratic accountability.

One of the major and enduring challenges for Probation into the future will be more effective and consistent implementation of evidence-informed policy and practice, to create 'deliberate change – in the target group and in the system – to better achieve public value results' (Sandfort and Moulton, 2015: 225). While we have a reasonably clear view on 'what works' in probation practice (e.g. Burnett and Roberts, 2004; Healy, 2010; Mair, 2004), this view is becoming increasingly refined and nuanced (e.g. McNeill *et al.*, 2010, 2016; Robinson and McNeill, 2016). That does not take away the need for leaders in Probation to continue to interpret and apply what we know, as best we can, and as far as evidence-informed practice is concerned.

Management and staff in Probation have consistently been motivated and committed to achieve good results, which, particularly through innovation and evidence-informed practice, has enabled the organisations to develop operations with a focus on continuous improvement. In this context, workforce modernisation and organisational development remain high on the leadership agenda in both organisations. In PBNI a Programme Board has been established to guide and develop work practices for all grades of staff and teams/units, to maximise efficiencies in outputs.

Ultimately, as Heifetz and Linsky (2002: 12) point out, the: 'hope of leadership lies in the capacity to deliver disturbing news and raise difficult questions in a way that people can absorb, prodding them to take up the message'. Given the commonality in our experiences as leaders, as well as our organisational similarities, not to mention the political imperatives, we believe that it is essential that our two services continue to collaborate at an interagency level, and on a cross-border basis, sharing good practice and developing creative new initiatives, including in terms of leadership and organisational change and development.

According to Moore (1995: 53): 'public sector enterprises can create value' by deploying 'the money and authority entrusted to them to produce things of value to particular clients and beneficiaries,' as well as by 'operating an institution that meets citizens' (and their representatives') desires for properly ordered and productive public institutions'. Probation agencies create such public value by helping to reduce reoffending and reintegrating offenders in their communities. As Moore (1995: 55) proposes, 'managers in the public sector must work hard at the task of defining publicly valuable enterprises as well as producing that value'. This is what Blanchard (2015: 87) describes as the 'why' of what any enterprise does, elaborating on this point to state that 'CEOs think they are in the "what" and the "how" business ... ultimately, though, they are in the "why" business.' In general terms, as stated by Taxman and Maass (2016: 179–180), probation is an 'elastic'[11] sanction, which 'offers a three-pronged arena of impact: to the justice system, to the individual offender, and to the community at large'.

In a context of sometimes shifting political and policy requirements, and changing stakeholder perceptions and requirements, leadership in Probation organisations must not only strive to maximise such positive

---

[11] It offers flexible responses and interventions, and can be tailored to individual requirements, for example.

impact. We must also be articulate, resilient, persistent and effective in promoting the value of probation in a context where 'in the eyes of the system and the community, [it] is not appreciated' and is not yet 'respected in the same light as incarceration' (Taxman and Maass, 2016: 195).

Change has been a major feature of the journey travelled by both organisations in recent years, and will continue to be into the future. As Kotter (2002: 177) points out, 'Turbulence [for organisations and their leaders] will never cease.' In the face of such turbulence, opportunities for positive organisational change – including those outlined above – are also presented. The quality of leadership at all organisational levels in probation, and our ability to manage and lead change within our own organisations and across the wider justice system, including maintaining and building systemic, interagency alliances, will continue to be a critical factor in how successful we are into the future.

Positive changes in the economic and political climate will not necessarily eliminate challenges or solve problems, but rather will change their nature and shape, and perhaps the specific response required to address them. We will have to focus not only on our own organisations but on the wider interagency system, and leaders would do well to recognise that 'Whether they want to or not, in order to be able to function they will have to enter into relations with organisations in their environment' (Kickert *et al.*, 1999: 59).

Conclusion

Probation across the island of Ireland, in common with the other elements of our criminal justice systems, continues to change and evolve. Leadership within criminal justice, and specifically Probation, therefore needs to continue to adapt in order to meet those evolving challenges. Leaders need to develop their leadership skill-set, resources and alliances, to be ethical and honest, and to foster a culture of creativity.

Those who work in Probation uphold a number of key and core values, including the belief in people's capacity to change. Those values reflect, support and complement the optimum leadership approaches required in our field of endeavour. It is imperative, therefore, that our leadership style and actions connect meaningfully with those within our organisations, to co-produce positive change.

The challenges faced by Probation on this island in recent times have led to a number of valuable opportunities, such as the possibility to make positive changes in adverse conditions. This paper has sought to demonstrate that appropriate leadership approaches, employed in challenging times, implementing 'what works' in probation, and working positively through our criminal justice systems, have brought about positive developmental change in our two organisations for the benefit of the public we serve. Those opportunities can and will continue to be grasped in a context of consistent, ethical and humble leadership, to enable all staff and other resources to be fully aligned with the vision and aims of the organisation, and to work collaboratively to achieve those goals, thereby helping to create safer, fairer and more inclusive communities.

References

Bailie, R. (2008), 'Criminal Justice (Northern Ireland) Order 2008', *Irish Probation Journal*, vol. 5, pp. 20–22

Belfast Telegraph (2017), 'Specialist courts plan derailed by political crisis: Judge', 30 March

Blanchard, K. (2015), 'Afterword', in G. Burnison, *The Leadership Journey: How to Master the Four Critical Areas of Being a Great Leader*, Hoboken, NJ: Wiley

Burnett, R. and Roberts, C. (2004), *What Works in Probation and Youth Justice*, Cullompton, UK: Willan

Centre for Effective Services (2016), *Implementing Public Service Reform: Messages from the Literature*, Dublin: Centre for Effective Services

Council of Europe (2010), *Recommendation CM/Rec (2010) 1 of the Committee of Ministers to member states on the Council of Europe Probation Rules* (adopted by the Committee of Ministers on 20 January 2010, at the 1075th meeting of the Ministers' Deputies), Strasbourg: Council of Europe

Cummings, S., Bridgman, T. and Brown, K. (2016), 'Unfreezing change as three steps: Rethinking Kurt Lewin's legacy for change management', *Human Relations*, vol. 69, no. 1, pp. 33–60

Department of Justice and Equality (2014a), *Report of the Independent Review Group on the Department of Justice and Equality*, Dublin: Department of Justice and Equality

Department of Justice and Equality (2014b), *Strategic Review of Penal Policy: Final Report*, Dublin: Department of Justice and Equality

Department of Justice and Equality, Probation Service, Irish Prison Service and An Garda Síochána (2016), *Joint Strategy on the Management of Offenders*, Dublin: Department of Justice and Equality

Doherty, T. and Dennison, M. (2013), 'Reducing offending in partnership', *Irish Probation Journal*, vol. 10, pp. 154–161

Donnellan, M. and McCaughey, B. (2010), 'The Public Protection Advisory Group: A model for structured cooperation', *Irish Probation Journal*, vol. 7, pp. 6–14

Doran, P. (2015), 'Effective partnership: A history of North South cooperation in probation work', *Journal of Cross Border Studies in Ireland*, vol. 10, pp. 32–48

Geiran, V. (2005), 'The development of social work in Probation', in N. Kearney and C. Skehill (eds), *Social work in Ireland: Historical Perspectives*, Dublin: Institute of Public Administration

Geiran, V. (2012), 'Making change in Irish Probation: Prioritising resources through evidence-based principles, organisational development and collaboration', *EuroVista: Probation and Community Justice*, vol. 2, no. 2, pp. 61–69

Hamilton, S. (2016), 'Reset: An opportunity to enhance offender resettlement and rehabilitation through mentoring', *Irish Probation Journal*, vol. 13, pp. 136–142

Healy, D. (2010), *The Dynamics of Desistance: Charting Pathways Through Change*, Cullompton: Willan

Heifetz, R.A. and Laurie, D.L. (2011), 'The work of leadership', in *On Leadership*, Boston: Harvard Business Review Press

Heifetz, R.A. and Linsky, M. (2002), *Leadership on the Line: Staying Alive Through the Dangers of Leading*, Boston: Harvard Business Review Press

Irish Prison Service and Probation Service (2015), *Joint Irish Prison Service and Probation Service Strategic Plan*, Dublin: Irish Prison Service, Probation Service

Kelly, K. and Hayes, G.E. (2010), *Leading in Turbulent Times*, Harlow, UK: Financial Times Prentice Hall

Kickert, W.J.M., Klijn, E.-H. and Koppenjan, J.F.M. (eds) (1999), *Managing Complex Networks: Strategies for the Public Sector*, London: Sage

Kotter, J. (1996), *Leading Change*, Boston: Harvard Business School Press

Kotter, J. (1999), *John P. Kotter on What Leaders Really Do*, Boston: Harvard Business School Press

Kotter, J. (2002), *The Heart of Change: Real-Life Stories of How People Change Their Organizations*, Boston: Harvard Business Review Press

Lewin, K. (1951), *Field Theory in Social Science* (ed. D. Cartwright), New York: Harper

Mair, G. (ed.) (2004), *What Matters in Probation*, Cullompton, UK: Willan

McNally, G. (2007), 'Probation in Ireland: A brief history of the early years', *Irish Probation Journal*, vol. 4, pp. 5–24

McNally, G. (2009), 'Probation in Ireland, Part 2: The modern age, 1960s to 2000', *Irish Probation Journal*, vol. 6, pp. 187–229

McNally, G. and Brennan, A. (2015), 'Community return: A unique opportunity', *Irish Probation Journal*, vol. 12, pp. 141–159

McNeill, F., Durnescu, I. and Butter, R. (eds), *Probation: 12 Essential Questions*, Basingstoke, UK: Palgrave Macmillan

McNeill, F., Raynor, P. and Trotter, C. (2010), *Offender Supervision: New Directions in Theory, Research and Practice*, Cullompton, UK: Willan

MARAC (n.d.), *Working Together to Reduce the Risks for Domestic Abuse Victims at Risk of Serious Harm: Guide for Professionals*, available at http://bit.ly/2wHPzG7 (accessed 17 August 2017)

Moore, M.H. (1995), *Creating Public Value: Strategic Management in Government*, Cambridge, MA: Harvard University Press

O'Donnell, I. (2005), 'Crime and justice in the Republic of Ireland', *European Journal of Criminology*, vol. 2, no. 1, pp. 99–131

O'Mahony, P. (1996), *Criminal Chaos: Seven Crises in Irish Criminal Justice*, Dublin: Round Hall Sweet and Maxwell

Probation Board for Northern Ireland (2017), *Annual Report 2016–17*, Belfast: PBNI

Probation Service (2015), *Lasting Change Through Offender Rehabilitation: Probation Service Strategy 2015–2017*, Dublin: Probation Service

Probation Service (2015–2016), *Annual Reports*, Dublin: Probation Service

Robinson, G. and McNeill, F. (eds) (2016), *Community Punishment: European Perspectives*, Abingdon, UK: Routledge

Rogan, M. (2011), *Prison Policy in Ireland*, Abingdon, UK: Routledge

Sandfort, J. and Moulton, J. (2015), *Effective Implementation in Practice: Integrating Public Policy and Management*, San Francisco: Jossey Bass

Schein, E.H. (2010), *Organizational Culture and Leadership* (4th ed.), San Francisco: Wiley

Taxman, F.S. and Maass, S. (2016), 'What Are the Costs and Benefits of Probation?', in F. McNeill *et al*. (eds), *Probation: 12 Essential Questions*, Basingstoke, UK: Palgrave Macmillan

Van Dijk, T.J. (2010), *Managing When Times Are Tough*, Santa Barbara, CA: Praeger

Wilson, M., McCann, J. and Templeton, R. (2013), 'SORAM: Towards a multi-agency model of sex offender risk assessment and management', *Irish Probation Journal*, vol. 10, pp. 177–192

Woodman, R.W. (2014), 'The science of organizational change and the art of changing organizations', *Journal of Applied Behavioral Science*, vol. 50, no. 4, pp. 463–477

More than 'Revenge Porn': Image-Based Sexual Abuse and the Reform of Irish Law

Clare McGlynn and Erika Rackley*

Summary: In the past few years, there have been a worrying number of press reports detailing the extent and harms of 'revenge porn'. In response, governments across the world have begun to take action, often adopting new criminal laws. However, both the term 'revenge porn' and many of these new laws are limited and fail to cover the nature and breadth of this growing phenomenon. Accordingly, the current law reform discussions in Ireland are taking place at an opportune moment. Ireland has a real opportunity to learn from the mistakes of other jurisdictions and to introduce an effective package of measures to reduce the prevalence of these pernicious practices. But in doing so, it will be vital that law and policy looks beyond the paradigmatic example of 'revenge porn', where a vengeful ex-partner shares private sexual images without consent. To be truly comprehensive, and to 'future-proof' legislation in a context of rapidly changing technology, the legislation must encompass the range of activities increasingly understood and conceptualised as 'image-based sexual abuse'.

Keywords: Revenge porn, image-based sexual abuse, non-consensual pornography, online abuse, digital abuse.

Introduction

In the past few years, there have been a worrying number of press reports of the growing phenomenon colloquially known as 'revenge porn'. In one recent Irish example, a sexually explicit video was uploaded by a malicious ex-partner to a pornography website and it had 10,000 views before the victim–survivor found out about it (Ward, 2016). Speaking about the experience, the victim–survivor talked of how this was a violation of her trust and basic human rights. She also urged a change in the law, as there was little the authorities could do to challenge her ex-partner's actions.

* Clare McGlynn is Professor of Law, Durham University, UK (email: clare.mcglynn. ac.uk). Erika Rackley is Professor of Law, Birmingham University, UK (email: e.rackley@bham. ac.uk).

This is just one example of the harmful and often devastating impact of having private, sexual images created and/or distributed without consent. With the ubiquity of the smartphone, these practices have become ever more prevalent. In response, governments across the world have begun to take action. New laws have been adopted in England & Wales, Scotland, Israel, Japan, Canada, New Zealand, Victoria (Australia), and over 30 states in the US. Many more countries are currently debating reform, including South Africa, Iceland and parts of Australia.

Accordingly, the current law reform discussions in Ireland are taking place at an opportune moment. Ireland has a real opportunity to learn from the mistakes of other jurisdictions and to introduce an effective package of measures to reduce the prevalence of these pernicious practices. But in doing so, it will be vital that law and policy look beyond the paradigmatic example of 'revenge porn', where a vengeful ex-partner shares private sexual images without consent. To be truly comprehensive, and to 'future-proof' legislation in a context of rapidly changing technology, the legislation must encompass the range of activities increasingly understood and conceptualised as 'image-based sexual abuse' (McGlynn and Rackley, 2017a).

What's the problem?

'Revenge porn'

In the classic case of 'revenge porn', a malicious ex-partner distributes private, sexual images without consent of the person(s) in the images. These images – typically posted on social media platforms such as Facebook or Twitter – often end up on one of many websites specifically dedicated to 'revenge porn' and/or commercial pornography websites. As the images spread they attract user comments, most of which are extremely abusive and sexualised. Often personal info is posted about the individual, including her (and it is usually her) name, social media details and sometimes a home address.

Women are far more likely than men to be victim–survivors of 'revenge porn' (Halliday, 2015). Figures from the UK's Revenge Porn Helpline show that 75% of 1800 calls over six months were from women (Government Equalities Office, 2015). Similarly, snapshot data of a 'revenge porn' website over a 28-day period found that just 18 (5%) of the 356 new posts featured men (Whitmarsh, 2015). However, while most online abuse is gendered and misogynistic, and victim–survivors are therefore predominantly women, men who do not conform to

conventional masculine norms or stereotypes are at greater risk of abuse and harassment than other men.

The impact on the victim–survivor can be devastating. They often feel shame and humiliation, and experience abuse and harassment – as well as fearing for their personal and physical safety. And the harm is ongoing: taking down these images is extremely difficult, and even when this does happen, victim–survivors' online and personal lives are often scarred for years.

Hacked or stolen images

The above scenario is the tip of the iceberg. Revenge is just one form of motivation for this type of abuse. Others are financial gain (including blackmail) or notoriety. In these cases, the victim–survivor is unlikely to be known personally to the perpetrator. A familiar example here is the hacking of a number of celebrity iCloud accounts, including that of the actor Jennifer Lawrence, and the subsequent posting of their private sexual images online in 2014 (Farrell, 2014).

Domestic abuse and violence

Sharing – or the threat of sharing – private sexual images without consent of all the individuals involved is also used as a measure of coercion and control in abusive relationships. For a number of years, Women's Aid in Ireland has been raising awareness of the growing problem of online technology being used to perpetrate abuse and harassment, including using the Internet and social media to share intimate images and videos without women's consent. Often the videos and images are created without consent, and the threat of distribution is also used as a particularly potent method of instilling fear in victim–survivors. Such abuse is extremely harmful:

> Women feel that their privacy has been invaded and that they have no control over their lives. Women experience anxiety, feel vulnerable and fearful, having difficulty in concentrating and sleeping. Women have to change their contact numbers and email addresses, close down social media accounts and in some cases, move out of their homes. (Women's Aid, 2017)

'Upskirting'

In the above examples, the harm and abuse are largely the result of the *distribution* of private sexual images without consent. Another reason

why the term 'revenge porn' fails to capture the breadth of harms is that it does not cover the non-consensual *creation* of such images. Creation includes images such as those surreptitiously taken up a woman's skirt – so-called 'upskirting' – and then distributed without consent (McGlynn and Downes, 2015). The ubiquity of smartphones – as well as the development of an alarming array of devices specially designed for these purposes, such as a camera hidden in the perpetrator's shoes (Chong, 2015) – means that these practices are on the rise. Women – and, again, the images are almost exclusively of women (Perrie, 2016; BBC News, 2016) – have been furtively photographed or filmed on university campuses (Siegel *et al.*, 2006), on trains (MacLaughlin, 2016) and in supermarkets (Yensi, 2015). Again, such activities are undertaken for a variety of reasons – money, fame, group bonding and, for some, sexual gratification. The images regularly appear online, usually on the many pornography websites dedicated to this genre. And this is big business. One such website exposed in a national UK newspaper reportedly receives 70,000 views a day and is valued at £130 million (Perring, 2015).

Sexualised Photoshopping

Another example of the non-consensual *creation* of private, sexual images is where a pornographic image is superimposed onto an individual's head/body part, such that it looks as if that individual is engaged in the pornographic activity: also known as 'sexualised Photoshopping' (McGlynn and Rackley, 2017a, 2017b). Sophisticated and readily available technologies not only mean that it is often impossible to tell that edits have been made to an original image, but also that a considerable proportion of non-consensually distributed private sexual images are Photoshopped (Gladstone and Laws, 2013). Indeed, a market has been created around this practice, with websites offering to produce such images (Gander, 2016). While these generated images are not 'real', the harms are very real. Many victim–survivors experience a breach of trust as well as a loss of dignity, harassment and/or abuse (e.g. Jeffreys, 2014; Blott and Martin, 2016). For them it matters little whether the images were 'originally' sexual, or Photoshopped:

> the fact that an image has been altered, or is even composed of images taken of different women, does not diminish the potential harm resulting from its dissemination. (Australian Women Against Violence Alliance, 2016: 6)

Sexual extortion

A further form of non-consensually created and distributed private sexual image involves the perpetrators coercing individuals, often but not only young people, into creating and/or sharing private sexual images. These are then used to force further image-creation – a practice known as sexual extortion or, more colloquially, 'sextortion'. On other occasions, as noted above, webcams, phones or data storage areas such as the iCloud may be hacked or stolen in order to obtain consensually taken private sexual images. The perpetrators can then use the threat of public dissemination to solicit further images and/or sexual practices and, in some cases, money (Wolak and Finkelhor 2016; Wittes *et al.*, 2016).

Perpetrators of sexual extortion are generally men. Children and young adults (both women and men) are common targets (Wittes *et al.*, 2016), though where victim–survivors are adults they are more likely to be women. For example, in a recent study, a perpetrator was found to have '15,000 webcam-video captures, 900 audio recordings, and 13,000 screen captures' that were predominantly of women (Wittes *et al.*, 2016: 2). Wittes *et al.* conclude that 'adult sextortion therefore appears to be a species of violence against women' (2016: 4). The harms experienced by victim–survivors are similar to those experienced by people who have spoken out following acts of 'revenge porn'. These include adverse impacts on mental health as well as fear of physical assault. Indeed, one victim–survivor described the feeling as 'like being raped through a phone' (Wolak and Finkelhor, 2016: 31).

Recordings of sexual assault and rape

Finally, one of the most disturbing examples of non-consensually created private sexual images involves the recording of rapes or other forms of sexual assault. In a notorious US case from 2013, two high school footballers were found guilty of raping an incapacitated young woman after pictures and films of the crime were distributed across social media. The images were used to further harass and humiliate the victim–survivor, blaming her for the assaults and including death threats against her (BBC News, 2013; Carpentier, 2013).

Terminology matters: image-based sexual abuse

The above are just a few examples of what an Irish Law Reform Commission report termed 'harmful communications' (Law Reform Commission,

2016). However, we suggest that they are better conceptualised as forms of 'image-based sexual abuse' (McGlynn and Rackley, 2017a). Why, though, if there is general agreement that such images are harmful, does the label matter? It matters because it informs and shapes our response to these actions. It matters because it risks causing misunderstanding of the nature of the harms, which in turn will have adverse impacts on attempts to prevent and tackle this phenomenon. And it matters because – contrary to the views of the Law Reform Commission – these actions should be recognised and categorised as sexual offences. Why?

First and foremost, the images involved are sexual. Countries across the world, including Ireland and the UK, are taking action against these harmful practices *because* the images are sexual. It is because they are sexual that the images go 'viral' and there is a market in their distribution. This is also the reason why the language of 'intimate' images (used, for example, in the recent Labour 'Harassment, Harmful Communications and Related Offences' Bill) misses the mark. Non-sexual (including intimate) images – while certainly capable of leading to harm and abuse – simply do not have the same potency.

Second, the language used when commenting on the images and/or in threats to distribute these or other images is sexualised. The women in the images are harassed and abused for transgressing expected norms of women's sexuality. They are castigated for exercising sexual agency (for taking sexual images or 'allowing' them to be taken). And, far from the impact of such comments being reduced by being online and/or anonymous, the threats (including those to rape) are often experienced by the victim–survivor as real, especially when posted next to their name, address and other contact details.

The sexualised nature of the abuse and harassment further identifies the harms suffered as breaches of women's rights to sexual freedom and sexual autonomy. The impact of image-based sexual abuse is that *all* women are made to feel constrained in their sexual choices and expression. Victim-blaming is rife, with police and media often telling *all* women that the way to prevent such abuse is to refuse to take or share pictures of themselves in the first place. Such advice – while often well-meaning – is clearly directed at the wrong party. And, clearly, everyone should be free to express their sexuality as they choose (so long as they don't harm others), including, if they wish, the taking and sharing of private, sexual images, without fear of these being distributed further without their consent.

Finally, women who have spoken about their experiences of image-based sexual abuse characterise what happened to them as a form of sexual offending and abuse (McGlynn, 2017). American YouTube star Chrissy Chambers described her experiences of such images being distributed worldwide as a form of 'sexual assault' (Kleeman, 2015). Similarly, Jennifer Lawrence described the hacking and distribution of her private sexual images as a 'sex crime' (*Vanity Fair*, 2014). And, of course, it's not just celebrities who are victims. Keeley Richards-Shaw from North Yorkshire became a victim–survivor when her ex-boyfriend took and shared sexual images of her without her agreement. Speaking of her experiences, she said: 'How anyone can fail to see revenge porn as a sexual crime is beyond me' (*Yorkshire Post*, 2016).

Unsurprisingly then, many organisations supporting women who have survived image-based sexual abuse characterise these harms as a form of violence and sexual abuse against women. In Ireland, Women's Aid's excellent work in this area, raising awareness and lobbying for legislative action, is germane not just to the general argument about the need for legislative and policy action, but also because it recognises and emphasises the gendered nature of these harms: 'our language matters around this issue. It's not revenge, it's not porn. It is abuse' (Women's Aid, 2016). Not only is image-based sexual abuse part and parcel of the broader phenomena of online abuse and harassment (McGlynn *et al.*, 2017) but its harms are gendered, and include, in some cases, gendered crimes (McGlynn and Rackley, 2017a). And yet, to date, there is no specific law in Ireland addressing these real and increasing harms.

Proposals for a new criminal law in Ireland

In this context, we welcome the announcement in May 2017 by the Tánaiste that a new criminal law will be adopted aimed at tackling a number of forms of image-based sexual abuse including 'upskirting' and 'revenge porn'. It follows the Labour Party's 'Harassment, Harmful Communications and Related Offences Bill', published in April 2017 (Howlin, 2017). This, in turn, was a response to the Law Commission's report on 'Harmful Communications and Digital Safety', published in September 2016, which outlined a comprehensive package of law reforms to tackle the growing problems of online harassment and abuse perpetrated using modern technologies and social media (Law Commission 2016).

Ireland is, then, on the cusp of introducing one of the more comprehensive and effective approaches to tackling these forms of online abuse. It has the opportunity to learn from the inadequacies of the English approach, recognise the benefits of the Scottish legislation, and take the best of the international mechanisms focusing on civil sanctions and actions.

Definition of an 'intimate' image

In order ensure that this happens, however, it is vital that legislators do not become bewitched by specific instances of image-based sexual abuse encompassed in 'media-friendly' terms such as revenge porn and upskirting, and continue to adopt a broad understanding of the many and varied – and potentially as yet unrealised – ways in which image-based sexual abuse can be perpetrated. It is welcome, therefore, that proposals to date have included sexualised Photoshopped images, images of body parts covered by underwear, and images taken in public places within the definition of an 'intimate image'.

Threats, motivations and requirement of actual harm

It is also welcome that, to date, the proposed offence has avoided requiring an enquiry into the motivations of the defendant and covers threats to record, distribute or publish such an image, without the consent of the individual(s) depicted. The latter is particularly important in terms of challenging forms of coercive control and abuse in domestic abuse relationships. This progressive stance, mirrored in the comparable Scottish provisions, is absent from the English law and reflects its failure to appreciate the prevalence and significance of such threats. However, the progressive nature of the absence of any focus on the motivations of the defendant is limited by the requirement, contained in the Labour Bill, that the recording, distribution or publication (or threat thereof) of an intimate image without consent 'seriously interfere with the peace and privacy of the person or causes alarm, distress or harm to the other person'. This appears to require the prosecution to prove – presumably by requiring evidence from the victim–survivor – that the defendant *actually* interfered with a victim's peace/privacy or caused *actual* harm to her/him, and is problematic for two key reasons.

First, there is a real danger this provision reifies an 'ideal victim' by pre-determining what is seen to be the 'appropriate' response from victims–survivors. Many victims–survivors do suffer serious harms. However, it

would be entirely appropriate for a victim–survivor to simply be angry at the actions of the defendant, who has still committed a serious offence even if there is no other 'evidence' of distress. Second, it may make prosecutions harder in circumstances where a potential victim–survivor may not yet know they have been victimised (for example in cases of multiple victims). If what is required involves not only informing the victim–survivor, but also securing evidence that the defendant's actions *caused* the distress or harm, there is a serious risk this will involve further intruding on the privacy of victims–survivors and reluctance to support prosecutions.

This is a far more restrictive provision than is provided in most other jurisdictions. In Scotland, for example, the requirement is to show that the defendant either *intended to cause* fear, alarm or distress, or was *reckless* as to this. This requires an inquiry into the intentions of the defendant but not evidence of any actual impact on the victim. Even the restrictive approach of English law (which does not cover reckless intention) only requires an intention of causing distress. In other jurisdictions, such as Illinois in the US, the law requires simply an intention to distribute intimate images without consent (McGlynn and Rackley, 2017a).

Invasion of privacy and/or a sexual offence?

The characterisation of the harms as a breach of the victim–survivor's privacy is welcome. The Law Reform Commission was right to conceptualise that the 'posting online [of] intimate images without consent … involve[s] gross breaches of the right to privacy' (2016: 1). We know that women experience image-based sexual abuse as an invasion of privacy (Women's Aid, 2016), but the Commission also locates its harms within a key constitutional right:

> the core of the right to privacy is frequently acknowledged to be the concept of intimacy, which includes certain details, activities, ideas or emotions that people generally do not want to share with others, except perhaps close family or friends, and includes the home and family life, correspondence and sexual relations. (Law Reform Commission, 2016: 32)

However, it is important that this focus does not come at the expense of other key understandings of the harm of image-based sexual abuse. The Law Reform Commission's suggestion that the non-consensual creation and/or distribution of intimate images is not a sexual offence (2016: 17)

is particularly troubling. Though the Commission is not entirely alone in its view – the UK Government has taken a similar approach in resisting the label 'sexual offences' (McGlynn 2017) – other jurisdictions have taken the opposite view. Israel, for example, prosecutes 'revenge porn' as a form of sexual offence (Yaakov, 2014), and an Australian Senate inquiry recently described the phenomenon as a 'sex crime' (Legal and Constitutional Affairs Committee, 2016). It is heartening, therefore, that Denis Naughten TD recently confirmed that the (now superseded) 'revenge porn' offence (as introduced by the Labour Party) 'will also be a sexual offence for the purpose of the Sex Offenders Act 2001, if an individual convicted is sentenced to a term of imprisonment' (Naughten, 2017). We are hopeful that this will be reflected in any new legislation.

Victim–survivor anonymity

The Commission's stance in relation to labelling image-based sexual abuse as a sexual offence is also somewhat at odds with its welcome recommendation that anonymity be granted to complainants (2016:106). Anonymity is vital in order to increase police reports and successful prosecutions, as well as to protect complainants from further harm (McGlynn, 2016). Anonymity is commonly extended to complainants of sexual offences, including in Ireland, and it is hoped that new provisions will continue this approach.

Effective enforcement and victim support

Following the introduction in 2015 of the English 'revenge porn' offence, there has been an important rise in the number of reports made to the police and the number of prosecutions (though the number of cases resulting in a conviction remains low). Effective enforcement is vital to ensure the effectiveness of any new provision. However, neither criminal nor civil sanctions against a particular individual remove the images from the Internet, or prevent their posting elsewhere. To this end, the Law Reform Commission's recommendation that a Digital Safety Commission be established to promote education and digital safety and be responsible for take-down processes is vital.

Support for victims–survivors is also essential. This requires sustainable funding for specialist organisations such as Women's Aid and Rape Crisis Centres. It is incumbent on any Government raising awareness about these harms, and introducing new measures to tackle them, to ensure that victims are properly informed of their rights and

given support. Only if this happens will victims feel able to report and continue with prosecutions. In the UK, the Revenge Porn Helpline has provided support to thousands and is a vital resource.

Beyond law reform: education and public awareness

At the beginning of 2016, there were reports of images of young Irish women being taken from Facebook and posted on various pornography websites (Rogers, 2016). The images were accompanied by highly sexual, pejorative and abusive comments. Many of the images did not involve nudity, but some were 'cum shots', where someone has ejaculated over the image and then posted this online. This was not 'revenge porn'. It is a form of image-based sexual abuse and attempt to exercise power over the person in the image.

However, it is unlikely to fall within the remit of current or proposed criminal laws in this area. Even the broadest law on image-based sexual abuse is unable to cover the myriad ways in which women and girls are currently harassed and abused online. And nor should it. While the criminal (and civil) law is an important coercive tool in this context (McGlynn and Rackley, 2017a), it is also a blunt one.

Fortunately, however, it is not the only resource available to us. Education and prevention campaigns that highlight and address the gendered and sexualised reality of image-based sexual abuse are vital. These are what really matter when the law runs out; when abusive actions do not fall within the scope of the criminal law; when women and men are deciding how to exercise their sexual autonomy and expression. While a new offence is a start towards public recognition of the harm of image-based sexual abuse, it can only play a small part in reducing the prevalence and the underlying culture that creates and legitimises sexual violence, abuse and harassment in all their forms.

Addressing this requires a commitment not just to headline-making legislative reform but also to law enforcement and, among other things, compulsory, age-appropriate education on sexual ethics and respectful relationships. What is needed is education programmes that explore intimate relationships and the increasing use of technology, value sexual expression and autonomy, and emphasise and distinguish between sexual consent and coercion.

And so, while any law on image-based sexual abuse is a welcome addition to the array of legal tools with which to tackle the abuse and humiliation of women, what is really needed is cultural change. We need

a shift in societal attitudes so that it is not just the breach of someone's privacy by malicious distribution of private images – sexual or otherwise – that is condemned, but also the culture of hostility and aggression that feeds and underpins it. The law plays a vital – but ultimately limited – role in bringing about that change.

Acknowledgements

References

Australian Women Against Violence Alliance (2016), 'Submission to the Senate Inquiry into "the phenomenon colloquially referred to as 'revenge porn'"', available at http://awava.org.au/wp-content/uploads/2016/04/AWAVA-submision-to-Senate-inquiry-on-phenomenon-colloquially-referred-to-as-revenge-porn-Jan-2016.pdf (accessed 16 November 2016)

BBC News (2013), 'Steubenville Ohio school footballers guilty of rape', 17 March, available at http://www.bbc.co.uk/news/world-us-canada-21823042 (accessed 16 November 2016)

BBC News (2016), 'Does Korea have a problem with hidden cameras?', 20 November, available at http://www.bbc.co.uk/news/magazine-38032465 (accessed 20 November 2016)

Blott, U. and Martin, A. (2016) '"I thought it was a sick joke": Revenge porn victim, 21, reveals how her brother was "kind and loving" before he posted stolen photos of her online and urged men to RAPE her', *Daily Mail*, 12 May, available at http://www.dailymail.co.uk/femail/article-3584848/Revenge-porn-victims-relive-ordeals-Morning.html (accessed 16 November 2016)

Carpentier, M. (2013), 'How the Steubenville case exposes the cruelty faced by rape survivors', *The Guardian*, 8 January, available at https://www.theguardian.com/commentisfree/2013/jan/08/steubenville-rape-case-cruelty-survivors (accessed 16 November 2016)

Chong, E. (2015), 'Jail for taking upskirt videos of 21 women', *Straits Times*, 23 December

Farrell, P. (2014), 'Nude photos of Jennifer Lawrence and others posted online by alleged hacker', *The Guardian*, 1 September

Gander, K. (2016), 'The people who Photoshop friends and family onto porn', *The Independent*, 13 October

Gladstone, B. and Laws, C. (2013), 'Why one mom's investigation might actually stop revenge porn', *WNYC*, 6 December 2013, available at http://www.wnyc.org/story/why-one-moms-investigation-might-actually-stop-revenge-porn/#transcript (accessed 19 July 2017)

Halliday, J. (2015), 'Revenge porn: 175 cases reported to police in six months', *The Guardian*, 11 October

Howlin, B. (2017), 'Howlin speech at launch of Harassment, Harmful Communications and Related Offences Bill 2017', available at https://www.labour.ie/news/2017/04/04/howlin-speech-at-launch-of-harassment-harmful-comm/ (accessed 19 July 2017)

Kleeman, J. (2015), 'US woman pursues ex-boyfriend in landmark UK revenge-porn action', *The Guardian*, 3 June

Government Equalities Office (2015), *Hundreds of Victim–Survivors of Revenge Porn Seek Support from Helpline*, Manchester: Government Equalities Office

Jeffreys, B.S. (2014), '$123M "revenge porn" suit filed against Facebook, former friend', *Texas Lawyer*, 29 July, available at http://www.texaslawyer.com/id=1202665077550/123M-Revenge-Porn-Suit-Filed-Against-Facebook-Former-Friend?siretum=20141010024912 (accessed 16 November 2016)

Law Reform Commission (2016), *Harmful Communications and Digital Safety*, Dublin: Law Reform Commission

Legal and Constitutional Affairs Committee (2016), *Phenomenon Colloquially Referred to as 'Revenge Porn', Which Involves Sharing Private Sexual Images and Recordings of a Person without Their Consent, with the Intention to Cause That Person Harm*, Canberra: Commonwealth of Australia

McGlynn, C. (2016), *Anonymity for Complainants of Image-Based Sexual Abuse: Focus on Harms to Victims, Not Motives of Perpetrators*, Durham: Centre for Gender Equal Media, available at https://claremcglynn.files.wordpress.com/2016/07/mcglynn-anonymity-revenge-porn-11-july-2016.pdf (accessed 19 July 2017)

McGlynn, C. (2017), '"Revenge porn' is a form of sexual assault', *Huffington Post*, 19 March

McGlynn, C. and Downes, J. (2015), 'Why we need a new law to combat upskirting and downblousing', *Inherently Human* blog, 15 April, available at https://inherentlyhuman.wordpress.com/2015/04/15/we-need-a-new-law-to-combat-upskirting-and-downblousing/ (accessed 19 July 2017)

McGlynn, C. and Rackley, E. (2017a), 'Image-based sexual abuse', *Oxford Journal of Legal Studies*, vol. 37, no. 3, pp. 534–561

McGlynn, C. and Rackley, E. (2017b), 'Why "upskirting" needs to be made a sex crime', *The Conversation*, 15 August 2017, available at https://theconversation.com/why-upskirting-needs-to-be-made-a-sex-crime-82357 (accessed 11 September 2017)

McGlynn, C., Rackley, E. and Houghton, R. (2017), 'Beyond "revenge porn": the continuum of image-based sexual abuse', *Feminist Legal Studies*, available at https://link.springer.com/article/10.1007/s10691-017-9343-2 (accessed 19 July 2017)

MacLaughlin, S. (2016), 'Former train cleaner "caught upskirting a 22-year-old woman" – a month after avoiding jail for filming women in a Sydney station bathroom', *Daily Mail*, 7 September, available at http://www.dailymail.co.uk/news/article-3778179/Man-caught-upskirting-women-Sydney-train-station-avoiding-jail-month.html#ixzz4MljYaEtA (accessed 16 November 2016)

Naughten, D. (2017), 'Speech to EMEA Child Safety Summit', 27 April, available at http://www.dccae.gov.ie/en-ie/news-and-media/press-releases/Pages/Speech,-EMEA-Child-Safety-Summit.aspx (accessed 19 July 2017)

Perrie, R. (2016), '"Upskirt" boffin rap: top professor who filmed women wearing short skirts admits slew of sexual offences', *The Sun*, 12 October

Perring, R. (2015), 'British women targeted by perverts taking "up-skirt shots" to put on £130m porn site', *Daily Express*, 18 May

Rogers, S. (2016), 'Facebook images of young Cork girls posted on porn site', *Irish Examiner*, 14 January

Siegel, L., Perry, R.A. and Hunt Gram, M. (2006), *Who's Watching? Video Camera Surveillance in New York City and the Need for Public Oversight*, New York Civil Liberties Union, available at http://www.nyclu.org/pdfs/surveillance_cams_report_121306.pdf (accessed 16 November 2016)

Vanity Fair (2014), 'Jennifer Lawrence calls "photo hacking" a sex crime', 7 October

Ward, J. (2016), 'Irish girl reveals revenge porn attack horror after ex boyfriend uploaded intimate video and images', *Irish Mirror*, 21 June

Whitmarsh, A. (2015), 'Analysis of 28 days of data scraped from a "revenge pornography" website', 13 April, available at everlastingstudent.wordpress.com 2015 (accessed 19 July 2017)

Wittes, B., Poplin, C., Jurecic, Q. and Spera, C. (2016), *Closing the Sextortion Sentencing Gap: A Legislative Proposal*, Washington, DC: Brookings Institution, available at https://www.brookings.edu/research/closing-the-sextortion-sentencing-gap-a-legislative-proposal/ (accessed 19 July 2017)

Wolak, J. and Finkelhor, D. (2016), *Sextortion: Findings from a Survey of 1,631 Victims*, available at https://www.wearethorn.org/wp-content/uploads/2016/08/Sextortion_Report.pdf (accessed 19 July 2017)

Women's Aid (2016), 'Media Release: Women's Aid welcomes Tánaiste's move to tackle cyber-stalking and "revenge pornography"', 31 December, available at https://www.womensaid.ie/about/newsevents/news/2016/12/31/media-release-womens-aid-welcomes-tanaistes-move-t/ (accessed 19 July 2017)

Women's Aid (2017), 'Media Release: Women's Aid welcomes move by Facebook to tackle the sharing of intimate images without consent ("revenge porn")', available at https://www.womensaid.ie/about/newsevents/news/2017/04/05/media-release-womens-aid-welcomes-move-by-facebook/ (accessed 11 September 2017)

Yaakov, Y. (2014), 'Israeli law makes revenge porn a sex crime', *Times of Israel*, 6 January

Yensi, A. (2015), 'Man accused of up-skirting at Towson grocery store', CBS Baltimore, 7 July, available at http://baltimore.cbslocal.com/2015/07/07/balt-co-employee-accused-of-upskirting/ (accessed 16 November 2016)

Yorkshire Post (2016), '"Revenge porn" is not a sexual offence, minister tells Yorkshire victim', 18 January, available at: http://www.yorkshirepost.co.uk/news/crime/revenge-porn-is-not-a-sexual-offence-minister-tells-yorkshire-victim-1-7682400 (accessed 19 July 2017)

Pre-sentence Reports and Individualised Justice: Consistency, Temporality and Contingency

Nicola Carr and Niamh Maguire⋆

Summary: This paper reports on selected findings from a study on pre-sentence reports (PSRs) in the Republic of Ireland, entitled *Individualising Justice: Pre-Sentence Reports in the Republic of Ireland* (Maguire and Carr, 2017). The research was commissioned by the Probation Service and was a small-scale, in-depth study exploring the role of PSRs in sentencing, with a particular emphasis on understanding the *process of communication* involved from the perspectives of Probation Officers who create the reports and judges who request and receive them. This paper draws on the findings from the research to explore specific aspects of the use of PSRs. It begins by highlighting certain features of the Irish context and then provides a brief overview of the methodological approach before presenting a summary of selected findings, including those relating to the purpose of reports and variation in their use. We explore some of the key themes arising from the research, including consistency, temporality and contingency. We conclude by noting the potential positives of pausing a process, but highlight the need for greater consistency to ensure equitable access across the country.

Keywords: Courts, judges, Ireland, sentencing, assessment, pre-sanction reports, probation.

Context

Various policy documents over the years have called for an increase in the range of alternatives to prison as a means of reducing the reliance on imprisonment, especially for those who commit less serious offences (Maguire, 2014; Carr, 2016). However, this policy aim has been met

⋆ Dr Nicola Carr is Associate Professor in Criminology, School of Sociology & Social Policy, University of Nottingham, UK (email: nicola.carr@nottingham.ac.uk). Dr Niamh Maguire is a Lecturer in Criminal Law and Criminology, School of Humanities, Waterford Institute of Technology (WIT) (email: nmaguire@wit.ie).

with varying levels of political commitment over the past 30 years. The *Strategic Review of Penal Policy* (Department of Justice and Equality, 2014) highlighted the need to make appropriate non-custodial sanctions available to the courts in order to reduce prison numbers in Ireland. However, legislative change in the area of sentencing reform is conspicuous by its absence (Kilcommins *et al.*, 2004; Maguire, 2016; Carr, 2016).

Despite the publication of the Criminal Justice (Community Sanctions) Bill in 2014, which promised to update and overhaul legislation in the area of community sanctions that is now over a century old (Carr, 2016; Maguire, 2016), the most recent legislative innovation in this area was the Community Service Order (CSO) introduced by the Criminal Justice (Community Service) Act 1983, which was conceived as a way of reducing reliance on the prison system. In an attempt to reduce the use of short prison sentences, the legislature introduced amending legislation in 2011 (the Criminal Justice (Community Service) Amendment Act 2011) requiring judges to consider imposing a CSO when contemplating a prison sentence of 12 months or less. However, the use of CSOs by the judiciary actually decreased in the years following the 2011 amendment (Probation Service, 2013). The Community Return Scheme, a form of back-door early conditional release first introduced in 2011, has had much greater success in terms of its impact on reducing prison numbers (McNally and Brennan, 2015).

A recent study that analysed the use of imprisonment and community sanctions in European countries has shown that Ireland fits with the trend observed in many European states whereby the use of community sanctions has grown in tandem with increases in the use of imprisonment (Aebi *et al.*, 2015). While there was an overall increase in the use of community sanctions by the courts in Ireland over the past three decades (Healy, 2015; Carr, 2016), the ratio of imprisonment to community supervision is still lower in Ireland than in our neighbours, England and Wales, and Northern Ireland (Aebi *et al.*, 2015).

Irish governments have traditionally been reluctant to 'intervene' in the formulation of sentencing policy and, as a result, legislative sentencing guidance is still relatively limited: there is no statutory sentencing framework that prioritises one or more specific sentencing aim(s) and no legislative guidance on how the various available sanctions should be used. Indeed, legislative provisions dealing with offence definitions, typically, only refer to the fact that a fine and/or a period in imprisonment may be imposed following conviction, even though judges may also consider a

wide range of other options including a Probation Order, a compensation order, a contribution to the poor box, Community Service Order and a suspended sentence.

Until recently, the superior courts in Ireland refused to issue guideline judgments on the grounds that doing so might interfere with judicial sentencing discretion, and Ireland is one of the only common law countries in the world that still does not have any form of statutory sentencing guidelines (O'Malley, 2013; Maguire, 2016).

In the absence of external sentencing guidance, judges have developed the principle of proportionality to guide their sentencing discretion (O'Malley 2006, 2013; Maguire 2016). This differs from traditional proportionality principles in that it requires that the sentence be proportionate to both the gravity of the offence and the personal circumstances of the offender[1]

However, the Law Reform Commission (2013) in its *Report on Mandatory Sentencing*, noting the research evidence of inconsistency in Irish sentencing practices (Hamilton, 2005; Maguire, 2010), recommended the establishment of a Judicial Council to develop and publish suitable guidelines on sentencing, thus implicitly acknowledging that the principle of proportionality is a not in itself a sufficient mechanism to ensure consistency in sentencing. Previous research that asked judges of the District Court to explain their sentencing choices found that judges rarely referred to the principle of proportionality in their accounts (Maguire, 2010). Instead judges prioritised doing justice on a case-by-case basis over consistency in sentencing and, when asked about what guidance they rely on, some judges explained that 'probation reports' offered guidance that informed their sentencing (Maguire 2010). Given the lack of sentencing guidance and the perception of judicial 'ownership' of sentencing, exploring the role and influence of PSRs may potentially provide important insights into how reports are requested and thus into the nature of sentencing in Ireland.

While PSRs are sometimes associated with a specific policy mandate related to increasing the use of community sanctions (see for example Tata *et al.*, 2008), this connection has not been explicitly made in Irish penal policy documents to date. While the Probation Service's internal PSR guidance manual does state that courts are 'encouraged to seek a PSR before making a supervised community sanction' (Probation Service,

---

[1] Per Denham J. in People (DPP) v. M [1994] 3 I.R. 306, at 317.

Table 1. New referrals to the Probation Service (2014–2016)

New referrals from court	2014	2015	2016
Probation (Pre-Sentence) Report	4817	5072	5342
Community Service Report	1943	1702	1773
PSR to consider Community Service	649	719	783
Orders without prior report	1037	936	929
Family conference	36	37	20
Total	8482	8466	8847

2014), it is not clear how widely shared this expectation is. Furthermore, the potential for PSRs to play a large role in promoting greater use of community supervision over the use of imprisonment should not be overplayed.

In 2015, the District Court received a total of 405,007 new offences and resolved 298,797 offences, and the higher criminal courts (including the Circuit Criminal Court) received 15,743 new offences and resolved 11,423 offences (Court Service, 2015). However, as Table 1 shows, the total number of referrals to the Probation Service from the courts in 2015 was 8466 and the total number of PSRs requested by the courts in the same year was 5072. PSRs will only be requested in a small proportion of the cases dealt by the criminal courts in any one year, thus understanding how the courts use this finite resource is a matter of some importance.

Pre-sentence reports: context and variation in use

PSRs are reports prepared by the Probation Service on the request of a judge following a finding of guilt and in advance of sentencing. PSRs conform to a specific structure, providing background information on the defendant (e.g. their family background, education and employment history, living arrangements, health), an analysis of the offence(s) before the court, any pattern of offending and the defendant's level of insight into their offending, including victim awareness where relevant (Probation Service, 2014).

Informed by a structured risk assessment tool (the Level of Service Inventory Revised, LSI-R), the reports include an assessment of the risk of reoffending and, depending on the circumstances of the case, they may also include an assessment of the risk of harm. The reports typically conclude with the Probation Officer's assessment of the defendant's suitability for specific sanctions including community sentences such as a Probation Order, a Community Service Order or a part-suspended custodial sentence (which involves a period spent in custody followed by supervision in the community).

Research in other jurisdictions has examined the influence of PSRs on the sentencing process (Tata *et al.*, 2008; Beyens and Scheirs, 2010; Wandall, 2010; van Windgerden *et al.*, 2014). While PSRs provide contextual information on a person's background and the circumstances of their offending, thereby situating them within a social domain, in many countries PSRs have become increasingly risk-oriented (Robinson, 2002; Persson and Svensson, 2012; van Windgerden *et al.*, 2014).

Reflecting broader penal trends, the extent to which risk becomes a central organising principle, impacting on the construction of the 'offender', the report's conclusion and ultimately the sentence imposed, has been considered in a range of research. The answers to these questions are culturally and context specific, but there is some consistency in studies from diverse contexts noting that risk orthodoxies can combine with more traditional conceptions of welfare. In the Canadian context, for example, Hannah-Moffat (2005) describes the melding of risk assessment and need profiles to produce the 'transformative risk subject'. Research in Ireland exploring aspects of PSRs, in both the adult and youth settings following the introduction of structured risk assessment tools, has found that while there was an increased focus on risk within reports, practitioners still tended to prioritise the welfarist dimension of their practice (Fitzgibbon *et al.*, 2010; Bourke, 2013; Quigley, 2014).

Studying the use, construction and interpretation of PSRs provides a useful vantage point from which we can explore how broader penal trends translate into everyday practice. Earlier research examined congruence between report recommendations and sentencing outcomes (e.g. Gelsthorpe and Raynor, 1995), while more recent research has explored the iterative processes involved in the construction and interpretation of PSRs (McNeill *et al.*, 2009; Field and Tata, 2010).

In requesting a PSR the court is seeking background information that will inform the sentencing decision. The extent to which the report author

anticipates the court's decision and therefore tailors the report to be well received by a sentencer through the use of particular language, framing devices and recommendations has been explored in some research. Of specific interest is whether the use of reports encourages a greater uptake in community sentences.

The interaction between reports and sentencing outcomes in Ireland is of particular analytical interest given the fact that, as identified, judges exercise a high degree of discretion and there is significant geographical variation in the use of reports (O'Malley, 2013; Carr, 2016). Despite a constitutional requirement for judges when exercising their sentencing discretion to consider whether the personal circumstances of the defendant merit mitigating the sentence, there is no legal obligation for a judge in the Republic of Ireland to request a PSR.[2] This contrasts with other jurisdictions. For example, in Northern Ireland, there is a presumption that the court should obtain a PSR prior to the imposition of a custodial sentence, and if a report is not requested, the reasons should be stated in open court. Further, if a case is appealed, a court of appeal can subsequently request a report.[3] There is also a presumption that a court should request a PSR when considering a defendant's suitability for the range of available community sentences. Given the lack of similar statutory requirements in the Republic of Ireland, it is perhaps unsurprising that there is variation in the use of PSRs across the country.

Information available from the Probation Service's most recent annual report shows the pattern of referrals to the service from the courts (Probation Service, 2016). New referrals to the service are categorised as follows: those made for PSRs, community service reports, PSRs to specifically consider Community Service and orders made without a prior report. Table 1 above shows the numbers of referrals for each category. Referrals for PSRs account for the largest category (60% of total referrals); noteworthy also is the fact that 11% of orders supervised by the Probation Service were made without a report.

---

[2] There is a requirement for judges to request a report when considering the imposition of a Community Service Order. Section 3 (1B) of the Criminal Justice (Community Service) Act 1983, as amended by the Criminal Justice (Community Service) (Amendment) Act 2011, states: 'Where in relation to an offender, the court considers that the offender is a person in respect of whom it may be appropriate to make a Community Service Order, it shall request the Probation Service to prepare a report (in this Act referred to as an "assessment report") in respect of the offender.'

[3] Part 2, Article 9, Criminal Justice (Northern Ireland) Order, 2008.

While the numbers of PSRs requested by the courts has risen in recent years, analysis of available data shows fluctuation in their use over time. For example, in 2008 the Probation Service received 7034 requests for PSRs, compared to 5342 in 2016 (Probation Service, 2008, 2016). The reasons for these variations over time are not explained, but perhaps more striking are the variations in the patterns of referrals from across the country. The limited existing research points to concerns regarding consistency in sentencing, particularly in the absence of sentencing guidelines (Maguire, 2010; O'Hara and Rogan, 2016). Data provided in the Probation Service's annual reports show significant geographic variability in both the use of PSRs and community sentences. For instance, there are relatively high rates of referrals to the service for reports from counties Carlow, Cork and Cavan (250–300 people referred to the service per 100,000 of the population) compared to Kerry, where the rates of referral are lowest at 1–50 per 100,000 of the population. The counties with the highest use of Probation Orders are Carlow, Cork and Waterford with 80–100 persons on probation per 100,000; the lowest rates are in counties Mayo, Kerry and Monaghan, where there are 1–20 Probation Orders per 100,000 residents. There is similar variance in the use of Community Service Orders (Probation Service, 2016).

While they are not always directly mapping, there seems to be a higher use of community sentences in areas where there is a higher use of PSRs. Corresponding information on rates of imprisonment and comparisons with offence types would clearly add to this overall picture. Nonetheless, based on available information we can see that there is significant variation in use of PSRs and community sentences. This small-scale, in-depth qualitative study is an attempt to explore the circumstances in which PSRs are requested by judges, as well as how they are constructed and their impact on sentencing.

Methodology

The study adopted a multidimensional approach to capture the PSR process from a range of perspectives. The research was subject to ethical review at the Waterford Institute of Technology. The Probation Service, which also sponsored the project, supported access. The study sample was derived from report requests received in two centralised assessment teams in a busy metropolitan area at the beginning of 2014. The Probation Service provided us with a list of report requests and we selected possible

Table 2. Sample overview

Case	Offence	Sentence	Length of time between report request and court sentence
CC01	Assault on police officer (×2); Production of article in the course of dispute; Threatening to kill or cause serious harm	Suspended prison sentence (18 months) with Probation supervision for 12 months (Criminal Justice Act, 2006).	285 days
CC02	Possession of drugs with intent to supply	Suspended prison sentence (three years). No supervision.	140 days
CC03	Attempted robbery	Suspended prison sentence (three years) with Probation supervision (Criminal Justice Act, 2006).	300 days
CC04	Theft (Breach of suspended sentence)	Suspended prison sentence revoked. Probation Order imposed (12 months). Prison sentence reimposed (three years) and suspended to allow for completion of Probation Order.	95 days
DC01	Theft (×3). Value: €6358	Fine – €750.	56 days
DC02	Theft. Value: €170	Probation supervision (12 months).	165 days

DC03	Unlawful possession of drugs (×2); Possession of drugs with intent to supply	Adjourned supervision – seven months then case struck out.	215 days
DC04	Possession of drugs for the purpose of sale or supply; Unlawful possession of drugs; Possession of a knife	Suspended prison sentence (nine months).	198 days
DC05	Possession of knives and other articles; Handling stolen property	Community Service Order (80 hours) (in lieu of two-month prison sentence).	197 days

cases based on the following criteria: originating court (i.e. District or Circuit); offence type; requesting judge; gender of defendant; and previous experience of Probation Service involvement. The sample was purposively selected based on these criteria in order to explore the range of cases for which reports were requested, possible differing reasons for report requests and any potential differences in report-writing styles.

A total of 18 cases were identified in the case selection process. Having selected cases, we approached the allocated Probation Officer and made arrangements with them to provide information on the study to the defendant and to ascertain if they would be willing to participate in the research. All potential participants were provided with written information on the study. It was made clear that participation was entirely voluntary and that the decision to participate in the research would not impact on the PSR in any way. For various reasons (including non-attendance at interview, or defendants not wishing to participate), the final study sample includes nine cases (five District Court and four Circuit Court cases). An overview of the sample, including the index offence(s) before the court, the final sentence and the time taken between report request and sentence outcome is provided in Table 2.

For each case, we observed the PSR interviews between the defendant and the Probation Officer (21 interviews in total). We subsequently

received a copy of the PSR (and in some cases further update reports) and then carried out an interview with the report author. We also carried out a number of observations in the District and Circuit Courts within the study area.

The methods used were intended to capture the temporal dimensions of the process as well as the viewpoints of those involved, specifically the views of those who requested the reports (judiciary) and those who constructed the reports (Probation Officers). We had initially sought to interview the judges who had requested the reports included in our sample; however, for a variety of reasons (including pressures of time), some judges were not available to participate. We therefore broadened our sample by inviting all judges in the study area. This led to the recruitment of five judges to the study.

In the original study design, we had also intended to capture the views of those who were the subject of the reports, an important perspective that has been absent from previous research on PSRs (Tata *et al.*, 2008) and indeed from broader scholarship on the experiences of 'offender supervision' (Durnescu *et al.*, 2013). From an ethical point of view, we felt it was important that the court proceedings should be finalised before we interviewed defendants about their experiences of the report process. However, the time taken for the process to reach completion (i.e. from report request to sentence outcome), in one case almost a year, meant that it was possible to follow up with only one defendant. To avoid any possibility of identification, we have not included this interview in our overall analysis. Each case was identified by the originating court – i.e. District Court (DC) or Circuit Court (CC) – and was assigned a number, e.g. DC01.

Temporality and the PSR process

One of the most striking features of the sample of reports included in the sample, as can be seen in the information provided in Table 2, is the amount of time the cases in the study took to reach completion, i.e. from the time a report was requested by the court to the final court decision. The cases ranged from 56 days to 300 days from report request to final decision. The shortest case (DC01) was one in which the defendant was a foreign national who did not have leave to remain in the country, and therefore a community sanction could not be recommended. In the longest case (CC03) the final outcome was a three-year suspended prison

sentence, involving Probation supervision during the suspension. There were a variety of reasons for the length of time taken in cases, including a deferral for specialist assessment by a restorative justice agency, non-attendance of defendants or Gardaí at court, and deferrals initiated by the court to assess a defendant's progress before deciding on the final outcome. In the last of these, we observed that legal representatives made such requests on behalf of their clients in order to build up a picture of progress over time.

The information provided in Table 2 is the timeline for cases to be processed from the point of report request to sentence outcome. It does not therefore include the *entire case processing time*, i.e. from the point at which the person was charged, the first court appearance, hearings and so forth. We do know that some of the offences for which the report was requested dated back a couple of years (e.g. in the case of CC01). Therefore, while requesting a PSR entailed a lengthening of the overall time for the case to reach a conclusion, this is just one aspect of the overall timeline for case processing.

By way of comparison, the Courts Service annual report for 2015 shows that the average lengths of proceedings for summary offences and indictable offences tried summarily in the District Court are 232 and 284 days respectively. However, these lengths are counted from the date of issuing of the summons/lodgement of charge sheet to the date of disposal of the case (Courts Service, 2015: 68). The average lengths of proceedings for indictable offences heard in the Circuit Criminal and Central Criminal Courts are 678 and 645 days respectively, and these periods are counted from the date of receipt of the return of trial to the final order (Courts Service, 2015). While requesting PSRs increases the length of proceedings, this needs to be considered in the context of overall delays within the criminal justice system (an issue that clearly merits further research). A key question arises as to whether the benefit PSRs bestow, if any, outweighs the extra burdens they involve.

In all cases, at least two PSR interviews were held with the defendant, and in some instances four interviews were conducted. Typically, the first interview was used to explain the process to the client and to seek their consent to make contact with relevant third parties (e.g. doctors, drug and alcohol services). Further interviews involved the collection and verification of information. In all but one case, report writers had access to the defendant's criminal record, and to further information on the

circumstances of the specific offence(s) for which the report had been requested.

In Circuit Court cases Probation Officers consulted the 'Book of Evidence' to gain information; in District Court cases a précis of evidence was provided (however, this source of information was only available in two of the five District Court cases included in the sample). As Probation Officers explained to us, they used the interviews to seek information on the defendant's account of events and sometimes to challenge these accounts when they varied from information available from other sources.

The status of the information available from these sources, and the treatment of it as a potentially more reliable account, is an issue we discuss in the report. However, the general point to note here is that the interview process served a variety of purposes – establishing a relationship with the defendant, seeking information on the circumstances of the offence, the subject's background and account of their behaviour and, perhaps most importantly, 'testing' the defendant's capacity for change and therefore their suitability for a community sentence. This extract from an interview with a Probation Officer captures their view of the interview assessment process:

> I think you have to build a relationship and you have to start the process in order, for, you know, to actually get the information and all that so … if you could start the process with someone and get them to link in with a group or whatever at this stage … that's great like, they've started the process. (Probation Officer, CC02)

One can see how the passage of time potentially assisted this process. Meeting with a defendant on a number of occasions meant a rapport could be established and that motivation could be tested over time, by for example setting tasks for the defendant such as making contact with a drug and alcohol treatment service or an employment adviser between appointments.

> Sometimes, it can also be, when you are assessing it is also how realistic some people will … aspire, they will have, they will aspire to one thing to engage and do X, Y and Z. But are they realistic about what it is going to entail? How difficult it could be? And again that's not about punishing, but you actually have to say okay we need to

set realistic goals here because there is no point in putting somebody under supervision in either a conditionally suspended sentence or the recognisance sentence that has very onerous conditions, that somebody doesn't really know what it means. You are actually setting them up for failure … it would have parallels to informed consent I suppose in a way. (Probation Officer, CC01)

The above quote touches on issues explored further in the report: that in the process of report writing, particularly when extended over time, the defendant can be 'tested' to establish if they are sincere in their willingness to address the areas causing difficulty in their life, and if they have the capacity to do so. As this Probation Officer identifies, this may be as much about the defendant knowing what this will involve and thereby consenting to it as about the Probation Officer making an informed assessment based on evidence of engagement.

While this may be true to the original ethos of probation – a term denoting 'testing' or 'proving' – what is notable in the Irish context is that at least some, if not a substantial amount, of this work is done *prior to* or *without the imposition of* a court order. This contrasts with neighbouring jurisdictions. In Northern Ireland, for example, reports are prepared within a specified time period (usually 20 working days) and the court then decides upon the sentence.

Purpose of reports: pausing, intervening, individualising

Our observations of the PSR writing process and our analysis of the interviews with practitioners led us to conclude that PSRs serve a number of latent purposes apart from the more obvious, formal ones. As discussed above, the emphasis on establishing a relationship with the client went beyond the instrumental requirement to obtain reliable information, and once trust was established it allowed a certain 'testing' of the client in order to ascertain willingness and capacity to change. This emphasis on relationship and trust building, together with the referrals Probation Officers made to other services during the report-writing process, resembled the beginning of a supervisory relationship more than a simple series of meetings to ascertain factual insights to ground a recommendation to the court.

Although the time taken to meet with clients on multiple occasions and then to write the reports often meant additional delays to the

court proceedings and thus to justice, there was a sense in which both the Probation Officers and judges viewed this process as potentially representing the beginning of the client's process of engagement with the Probation Service and other agencies.

PSRs in some cases may thus represent a form of intervention in themselves. As discussed above, Probation Officers described the relevance of relationship building and referrals to other services and agencies as a way for the client to start a process of engagement, a key factor in testing willingness and capacity to change. Somewhat more surprising was that the judges we interviewed also perceived requests for PSRs as potentially offering something extra beyond their formal purposes:

> if you were adjourning the matter for a probation report officially, unofficially you are giving that person an extra piece of leash … to use the Probation Service as an assist in getting themselves detoxified or, or stabilised in terms of their accommodation and so on and so forth. (Judge 03)

The formal purpose of a PSR is to assist judicial decision-making in specific cases by providing greater insight into the client's background and to make a sentence recommendation based on a considered and professional judgement. However, a secondary or latent purpose, shared by the judges and Probation Officers who participated in our study, is that the report-writing process provides a momentary pause in the larger process during which the client has the opportunity to make a choice about whether or not they wish to engage by demonstrating willingness and capacity to change.

> From my point of view they [PSRs] are terribly important because what I feel … if you have a reservation about sentencing on the day which you could do just to get rid of it … but if you have a reservation you go with it. There is always a reason why. Get the report and that may explain why you were right to pause and see what's the problem and see if you can get to the root of the problem and deal with it and move it along on that basis. (Judge 05)

An important caveat is the fact that this quasi-supervisory engagement is temporary due to the fact that the PSRs are written by dedicated

assessment teams in the area in which we conducted this research, and clients who successfully begin a process of engagement with report writers are invariably referred on to a new supervisor if they are sentenced to some form of community supervision.

Both the formal and latent purposes of PSRs therefore underscore the centrality of the PSRs as a means of facilitating judges to individualise sentences to the specific facts of the case. Judicial perspectives on the purposes of reports emphasised their importance as a form of assistance to sentencers by providing insight into the background and attitude of the defendant, which, taken together, are highly relevant not only for understanding the reasons underpinning offending behaviour but also to the decision to impose a custodial or non-custodial sentence.

While Probation Officers and judges undoubtedly approach PSRs from different perspectives, we found a high level of congruence between the two groups in terms of their shared understanding of the key purposes (formal and informal) of PSRs. Judges tended to welcome sentence recommendations because they respect the distinct professional training of Probation Officers and thus the unique contribution they can make to understanding the case in hand. For the most part, Probation Officers were generally confident that their recommendations were given serious consideration.

Recognising the potential additional benefits of being referred to the Probation Service (for a PSR) places a greater onus on us to understand the basis on which such requests are typically made. An important finding of the study is that judges do not only request PSRs when considering imposing a community sentence; some judges request reports when they are genuinely unsure about which direction to take, whereas others admitted requesting reports as a form of due diligence when considering a term of imprisonment. This wide-ranging use perhaps reflects the lack of a clearly defined policy regarding how and when PSRs should be used, and suggests that there may be some merit in redefining their role.

The additional benefits that may potentially accrue when a PSR is requested raise important questions about consistency in sentencing. As noted earlier, judges are constitutionally required when exercising their sentencing discretion to consider both the gravity of the offence and the personal circumstances of the offender. Personal circumstances are relevant to mitigation of the sentence. As PSRs speak directly to the personal circumstances and thus to mitigation, it is of the utmost importance that there is a coherent policy guiding the types of cases in

which reports are requested, to ensure that similarly situated persons are treated equally and fairly in terms of the quality of decision-making but also in terms of access to resources.

Contingency and the PSR process

A further finding from our study is that in the time taken to finalise the sentence outcome a defendant occupies something of a liminal space. In some instances, cases are categorised as being under 'adjourned supervision' in the period where there is some form of supervision but no formal sentence. This practice of 'adjourned supervision' has evolved over time and while it has no legislative basis, it is used frequently.[4] Information from the Probation Service shows that in 2016 there were 1667 orders for Supervision During the Deferment of Penalty (i.e. adjourned supervision), constituting 24% of the supervisory case-load (Probation Service, 2016).

In our sample of cases, one of the nine cases (DC03) was categorised as being under 'adjourned supervision' and was ultimately struck out after the person had engaged with their assessment over a seven-month period. In other cases, which were potentially more 'cusp' cases (i.e. where a sentence of imprisonment was a real possibility), suspended prison sentences were ultimately imposed. Three of these cases received a suspended prison sentence coupled with community supervision orders (CC01, CC03, CC04). Two cases received suspended prison sentences without any form of supervision in the community (CC02, DC04). However, before the decision was made regarding the final sentence, the defendant was in something of a liminal space – neither formally subject to a court order nor fully free, in that their engagement with Probation was important for how their sentence was determined. This liminal position could extend over a number of months.

The questions of time and contingency of the PSR process and, by extension, practices of adjourned supervision raise a number of issues. There are issues of proportionality to be considered where a person is engaging in a process that is not an actual sentence, and which may or may not be taken into consideration in the final sentencing decision. However,

---

[4] While deferred or adjourned sentences have no specific legislative basis, it could be argued that they fall under Section 1(1)(ii) of the Probation of Offenders Act 1907. Furthermore, the practice of deferral of sentence has a long and distinguished legal history in common law in this and neighbouring jurisdictions.

concerns regarding proportionality or the 'weight' (McNeill, 2017) of the experience must also be considered alongside the potential benefits of this particular form of 'judicial innovation' (Healy and O'Donnell, 2005). For instance, in the case of DC03, after a seven-month process of engagement precipitated by the request for a PSR, the case was ultimately 'struck out' by the court and no conviction was recorded. In other cases, where custody may have been a strong possibility (e.g. CC01), evidence of engagement with the Probation Service may have offset this outcome. While the cases in our sample provide some insight into this particular penal practice, it is clearly an area that merits further research.

Conclusion

PSRs perform an important, although often unacknowledged, role in the Irish criminal justice system. They facilitate communication between two distinct professional groups – Probation Officers and judges. Although they approach reports from different perspectives, the two groups share an understanding of their central purpose which includes providing information on the offender's personal circumstances and background and, most importantly, providing a professional opinion on a person's willingness and capacity to engage with a community sentence. The judges we interviewed welcomed sentence recommendations, acknowledging the distinct professional training and judgement that Probation Officers bring to the table.

PSRs are undoubtedly very valuable as a sentencing tool and as a resource available to judges. However, the variations in use that we observed in this study reflect the lack of clear policy or legislative guidance on when and for what purposes they should be used. The statistical data also show wide variations in the proportion of reports requested across different parts of the country, which, we argue, has serious repercussions for fairness and consistency in sentencing. Beyond their formal sentencing function, PSRs potentially offer benefits to clients by encouraging and facilitating their engagement with various supports and services. In so far as they resemble a form of intervention in themselves, the variation in their use and thus availability in courts across Ireland raises important questions around the issue of distributive justice.

As Geiran (2017) notes, the term 'probation', while subject to contestation across time and place, captures something about the value of second chances and allowing people to prove themselves. The Probation

of Offenders Act (1907), which remains the primary legislation governing probation in the Republic of Ireland, encapsulates something of this essence. The fact that the Republic of Ireland has retained this legislation as the primary statutory instrument governing probation has been seen as evidence of 'stagnation' within the Irish criminal justice system (O'Donnell, 2008). Arguably the retention of legislation that allows for constructive ambiguity, including a period of 'testing' and the potential to avoid a criminal record, may accord to principles that will ultimately support desistance from offending more successfully. However, it is equally clear that there is a need for additional mechanisms, most likely in the guise of legal reform, to ensure equity of approaches across the country.

References

Aebi, M.F., Delgrande, N. and Marguet, Y. (2015), 'Have community sanctions and measures widened the net of the European criminal justice systems?', *Punishment and Society*, vol. 17, no. 5, pp. 575–597

Beyens, K. and Scheirs, V. (2010), 'Encounters of a different kind: Social enquiry and sentencing in Belgium', *Punishment and Society*, vol. 12, no. 3, pp. 309–328

Bourke, A. (2013), 'Pre-Sanction Reports in Ireland: An exploration of quality and effectiveness', *Irish Probation Journal*, vol. 10, no. 1, pp. 75–89

Carr, N. (2016), 'Community sanctions and measures', in D. Healy *et al.* (eds), *The Routledge Handbook of Irish Criminology* (pp. 319–336), Abingdon, UK: Routledge

Courts Service (2015), *Annual Report*, Dublin: Stationery Office

Department of Justice and Equality, *Strategic Review of Penal Policy: Final Report*, Dublin: DoJE

Durnescu, I., Enengl, C. and Grafl, C. (2013), 'Experiencing supervision', in F. McNeill and K. Beyens (eds), *Offender Supervision in Europe*, Basingstoke, UK: Palgrave Macmillan

Field, S. and Tata, C. (2010), 'Connecting legal and social justice in the neo-liberal world? The construction, interpretation and use of pre-sentence reports', *Punishment and Society*, vol. 12, no. 3, pp. 235–238

Fitzgibbon, W., Hamilton, C. and Richardson, M. (2010), 'A risky business: An examination of Irish Probation Officers' attitudes towards risk assessment', *Probation Journal*, vol. 57, no. 2, pp. 163–174

Geiran, V. (2017), 'Penal reform and probation in Europe: Positive changes of direction, "nudges to the rudder" or "steady as she goes?"', *Howard Journal*, vol. 56, no. 1, 72–91

Gelsthorpe, L. and Raynor, P. (1995), 'Quality and effectiveness in Probation Officers' reports', *British Journal of Criminology*, vol. 35, no. 2, pp. 188–200

Hamilton, C. (2005), 'Sentencing in the District Court: "Here be dragons"', *Irish Criminal Law Journal*, vol. 15, no. 3, p. 9

Hannah-Moffat, K. (2005), 'Criminogenic needs and the transformative risk subject: Hybridizations of risk/need in penality', *Punishment and Society*, vol. 7, no. 1, pp. 29–51

Healy, D. (2015), 'The evolution of community sanctions in the Republic of Ireland: Continuity, challenge and change', in G. Robinson and F. McNeill (eds), *Community Punishment in Europe* (pp. 136–155), Abingdon, UK: Routledge

Healy, D. and O'Donnell, I. (2005), 'Probation in the Republic of Ireland: Contexts and challenges', *Probation Journal*, vol. 52, no. 1, pp. 56–68

Law Reform Commission (2013), *Report on Mandatory Sentencing* (LRC 108-2013), Dublin: Law Reform Commission

McNeill, F. (2017), 'Mass supervision, misrecognition and the "Malopticon"', presentation to the European Society of Criminology Working Group on Community Sanctions and Measures, Barcelona, 19 May, available at https://communitysanctionsblog.files.wordpress.com/2013/03/fergus-mcneill.pdf (accessed 9 August 2017)

Maguire, N. (2010), 'Consistency in sentencing', *Judicial Studies Institute Journal*, vol. 2, pp. 12–24

Maguire, N. (2014), 'When is prison a last resort? Definitional problems and judicial interpretations', *Irish Criminal Law Journal*, vol. 24, no. 3, pp. 62–72

Maguire, N. (2016), 'Sentencing', in D. Healy *et al.* (eds), *The Routledge Handbook of Irish Criminology* (pp. 298–318), Abingdon, UK: Routledge

Maguire, N. and Carr, N. (2017), *Individualising Justice: Pre-Sentence Reports in the Irish Criminal Justice System,* Dublin: Probation Service

McNally, G. and Brennan, A. (2015), 'Community Return: A unique opportunity', *Irish Probation Journal,* vol. 12, pp. 141–159

McNeill, F., Burns, N., Halliday, S., Hutton, N. and Tata, C. (2009), 'Risk, responsibility and reconfiguration: Penal adaptation and misadaptation', *Punishment and Society*, vol. 11, no. 4, pp. 419–442

O'Donnell, I. (2008), 'Stagnation and change in Irish Penal policy', *Howard Journal*, vol. 47, no. 2, pp. 121–133

O'Hara, K. and Rogan, M. (2016), 'Examining the use of Community Service Orders', *Irish Probation Journal*, vol. 12, pp. 22–46

O'Malley, T. (2013), 'Living without guidelines', in A. Ashworth and J. Roberts (eds), *Sentencing Guidelines: Exploring the English Model*, Oxford: Oxford University Press

Persson, A. and Svensson, K. (2012), 'Shades of professionalism: Risk assessment in pre-sentence reports in Sweden', *European Journal of Criminology*, vol. 9, no. 2, pp. 176–190

Probation Service (2008), *Annual Report 2008*, Dublin: Probation Service

Probation Service (2013), *Annual Report 2013*, Dublin: Probation Service

Probation Service (2014), *Policy and Procedures for the Preparation of Pre-sanction Reports for Court*, Dublin: Probation Service

Probation Service (2016), *Annual Report 2016*, Dublin: Probation Service

Quigley, E. (2014), 'Pre-sentence Reports in the Irish youth justice system: A shift to risk-oriented practice?', *Irish Probation Journal*, vol. 11, pp. 63–86

Robinson, G. (2002), 'Exploring risk management in probation practice: Contemporary developments in England and Wales', *Punishment and Society*, vol. 4, no. 1, pp. 5–25

Tata, C., Halliday, S., Hutton, N. and McNeill, F. (2008), 'Assisting and advising the sentencing decision process: The pursuit of "quality" in pre-sentence reports', *British Journal of Criminology*, vol. 48, no. 6, pp. 835–855

van Wingerden, S., van Wilsem, J. and Moerings, M. (2014), 'Pre-sentence reports and punishment: A quasi-experiment assessing the effects of risk-based pre-sentence reports on sentencing', *European Journal of Criminology*, vol. 11, no. 6, pp. 723–744

Wandall, R.H. (2010), 'Resisting risk assessment? Pre-sentence reports and individualized sentencing in Denmark', *Punishment & Society*, vol. 12, no. 3, pp. 329–347

A Practitioner's Response to 'Chronic Offenders and the Syndrome of Antisociality: Offending is a Minor Feature!'

Lisa C. Anderson⋆

Summary: This paper is a practitioner's response to 'Chronic Offenders and the Syndrome of Antisociality: Offending is a Minor Feature!' by Georgia Zara and David P. Farrington, published in *Irish Probation Journal*, October 2016. That thought-provoking article focused on the psychology of chronic offenders through the exploration of both their criminal careers and their life stories. This response reflects on key themes that Zara and Farrington identified, based on their analysis of quantitative and qualitative data from the Cambridge Study in Delinquent Development (CSDD). These include: the definition and characteristics of a chronic offender; the syndrome of antisociality and its trajectory in the lives of chronic offenders; the pervasive themes of hopelessness, failure and loss; and the challenge for professionals in identifying and pursuing interventions that can break (or at least modify) the syndrome of antisociality. Similarly to that article, based on two extensive case histories, the reflections in this paper draw from the experience of a probation practitioner working, within an assessment framework, with people whose lives have been characterised by patterns of abuse, neglect and social rejection as well as criminality.

Keywords: Chronic offenders, criminal careers, antisociality, probation, assessment, change, hope, desistance, multi-agency working.

Introduction

My primary task, as a Probation Officer on the Court Liaison Team in Dublin, is to undertake assessments with offenders, in both a community and a custodial setting, for the purpose of preparing reports for the Circuit Courts. Offender assessment underpins the work of the Probation Service: it informs sentencing decisions, looks at an offender's needs in relation

⋆ Lisa Anderson is a Probation Officer on the Dublin Court Liaison Team (email: lcanderson@ probation.ie).

to the risk of reoffending and/or the risk of causing future harm, and determines an offender's suitability for a community sanction, as well as the interventions required to promote change and facilitate reintegration.

Reading the 2016 article 'Chronic Offenders and the Syndrome of Antisociality: Offending is a Minor Feature!' by Georgia Zara and David P. Farrington, and their consideration of the psychology of chronic offenders, I recalled assessments with offenders that were the subject of much debate with colleagues and supervisors. Phrases such as 'reinventing the wheel', 'the revolving door' and 'how to make a difference' came to mind. The offenders' Garda criminal records detail their criminal persistence, and their Probation Service files outline traumatic backgrounds and complex and unstable needs. In addition, there is frequently a pattern of intermittent engagement with a series of what can only be described as failed interventions.

The challenge for me, as a probation practitioner, has been one of identifying effective interventions that include engagement with the Probation Service and other therapeutic services, while balancing the management of the risk factors associated with criminal behaviour. The Zara–Farrington article prompted me to re-evaluate my own definition and understanding of chronic offenders, and to consider how the authors' presentation of the syndrome of antisociality could influence practitioner interventions with chronic offenders, in order not to perpetuate the cycle of failure.

Zara and Farrington present a review of the literature that suggests substantial variation in the definition and description of chronic offenders or, as DeLisi (2005) suggests, offenders who can also be considered as career criminals or habitual offenders. For example, Wolfgang *et al.* (1972) determined chronic offenders as those accruing five or more convictions prior to adulthood. Zara and Farrington's article identifies highly chronic offenders as those with 10 or more convictions.

It is interesting that these differing methodological considerations seem to echo the lack of agreement inherent in the definition and conceptualisation of desistance. Bushway *et al.* (2001) propose that the determination of cut-off points for offenders who desist is random, suggesting there may be little correlation across studies regarding the factors influencing desistance. This is similar to the varying definitions of chronic offenders presented in research.

My own reading and experience lead me to believe that there is a much higher cut-off point of criminal convictions in the initial determination of

chronic offenders. In my experience, chronic offenders tend to present with a persistent and extensive history of offending behaviour stretching from childhood to adulthood, where any significant lull or crime-free gap appears to occur because of incarceration or other externally imposed factors rather than by an individual or autonomous choice or significant behavioural or attitudinal change.

Would the identification of a chronic offender at assessment stage alter my evaluation of an offender or the proposed interventions to address their criminal behaviours? Or would the classification 'chronic offender' result in the further labelling of clients, a significant number of whom already struggle with being deemed a high or very high risk offender? Case (2006: 173) warns against 'stigmatising, marginalising and criminalising young people through risk-based targeting', recommending that assessments should be accompanied by qualitative processes.

O'Mahony's (2009: 113) review of the Risk Factors Prevention Paradigm (RFPP) in juvenile justice outlines the failure of this approach to account for 'personal agency, socio-cultural context, psychological motivation and the human rights dimension'. Many practitioners are mindful of the limitations of the risk paradigm while at the same time recognising the important contribution that risk-focused epidemiological research has made in the field of criminology.

What attracts me about this article is that it seems to soften what are often perceived as the more hardened contours of risk assessment/management. In highlighting the psychology of chronic offenders, the fraught nature of their life development and their internalised reality, the conclusions bring together many of the lessons learned from the risk/need/responsivity paradigm and the desistance literature.

Zara and Farrington's article clearly asserts that in isolation, a rigid quantitative tool will not identify, or assist us in understanding, chronic offenders, and therefore consideration must be given to the qualitative analysis of such offenders' lives. Based on the CSDD data they conclude that 'chronic offenders are more likely to have an early onset and a later age for their last conviction, are more likely to be involved in a pattern of maladjustment and antisociality, are more likely to engage in a variety of offences as their criminal career continues, and are less likely to desist spontaneously from a criminal career' (2016: 42).

This proposition brings to mind an offender I worked with whose criminal career commenced in his early teens, arising from a childhood with minimal parental controls, domestic violence and an environment of

poverty and substance misuse. A period of desistance only occurred when he tragically suffered a cerebral haemorrhage.

In Zara and Farrington's exploration of case studies, they present the life stories of two chronic offenders, demonstrating the cognitive distortions, personality disorders, rejection, solitude, aggressiveness, and ambivalence present at different stages in their lives. They suggest that 'an underlying pattern of antisociality and maladjustment casts a shadow over their childhood, adolescence and adulthood' (2016: 25). The conclusion that 'delinquent behaviour [for chronic offenders] is a relatively minor aspect of a life characterised by extremely abusive parental relationships, emotional neglect, substance abuse, unemployment, social rejection, and domestic violence' (2016: 40) is a simple but profound message which can sometimes get lost in the wider rhetoric of criminal justice policy and practice.

Probation practice places significant focus on maintaining a social work perspective in its interventions with offenders insofar as it aims to encourage and support desistance, within a care versus control framework. The argument with regard to the psychology of chronic offenders and their syndrome of antisociality encouraged me to reflect on where the focus of my own work should lie. Zara and Farrington prompted me to reconsider how interventions targeting criminal behaviour must be balanced with interventions that 'address the psychosocial reality and the emotionally distressed climate experienced' by the chronic offender (2016: 58).

All criminal justice agencies will agree with Zara and Farrington's assertion that 'Empirically supported interventions for chronic offenders … are resource-intensive and they are long-term' (2016: 58). The presentation and characteristics of many high-risk offenders (with whom I previously worked as part of an Intensive Probation Supervision programme) are reflected in the description of chronic offenders by Zara and Farrington. Using the classification, which focuses on previous convictions and assessing the syndrome of antisociality, some of the high-risk offenders with whom I worked could also have been categorised as chronic offenders (high chronics).

Whatever the category, interventions with high-risk offenders require a multidisciplinary approach comprising individual and group-work programmes, education and training programmes, and practical and emotional support while attempting to foster an offender's social capital. As Zara and Farrington (2016: 46) argue, 'Criminal behaviour is in fact one of the many manifestations of a *syndrome of antisociality* that is

pervasive in an individual life and influences not just conduct but how the individual functions: ways of relating to people, of taking social and professional responsibilities, of bonding with others and building up a family life, and of educating children' (emphasis in original).

In conducting a study (in fulfilment of my Master's Programme in Social Work) on how desistance works for those who desist, the personal processes of their desistance journey were explored with a small number of what were termed high-risk, but could also be considered chronic, offenders. Their reported experiences echoed the patterns outlined above and highlighted the importance of a 'systemic approach which supports positive social bonds, pro-social institutions and significant life events that can provide turning points for offenders to desist from crime' (Anderson, 2012: 45)

A recurring theme in the syndrome of antisociality is the degree of hopelessness, failure and loss that is inherent in the lives of these chronic offenders. Experiences from the education system and as a probation practitioner have apprised me of the reality that offenders often present with histories of failure – at school or work, in relationships, and even in crime – and they may feel that there is little that can be done to positively change their lives.

Zara and Farrington further illustrate the 'rigid, maladaptive and defensive' worldview of many chronic offenders whereby 'Their lives were characterised by a constant struggle to solve adaptive tasks relating to identity or self, intimacy and attachment, and prosocial behaviour' (2016: 57). The impact of these cognitive distortions often results in an offender's continued acceptance of the inevitability of their situation. Intervening effectively to assist chronic offenders to desist will therefore require a strong focus on their mental health and personality and the potential for a narrative transformation, as is suggested for persistent offenders by McNeill (2005).

How, as a probation practitioner, does one undertake appropriate assessments and engage more effectively with a chronic offender? Chronic offenders, like all offenders, need support to desist from an antisocial lifestyle (Zara and Farrington, 2016: 58); the process of desistance from criminal behaviour is only a minor part of the focus of required interventions. The question remains: how do criminal justice agencies balance the management of criminogenic risks and needs with the psychological and social interventions necessary to positively and effectively impact on the lives of chronic offenders?

Despite the challenge of life histories punctuated with persistent failures and losses, and a criminal justice agency that must prioritise its resources, Zara's and Farrington's article is a valuable resource to inform assessment and intervention with chronic offenders, which can increase the potential for better outcomes for these offenders and their communities.

The Probation Service is well placed, within a multi-agency setting, to carefully delve beneath the chaos and hopelessness with which chronic offenders present, and to uncover and promote protective factors, while addressing the multifaceted risk factors, in order to foster behavioural and psychological change. A Probation Officer's fundamental belief in the possibility of change for chronic offenders is key in this process. We must guard against adopting a no-hope response (i.e. the offender is not motivated to change) while equally being cautious not to propose interventions that set the bar too high, as unrealistic, unattainable goals will simply perpetuate the very cycle that the engagement is intended to interrupt.

References

Anderson, L.C. (2012), *How Desistance Works for Those Who Desist: An Exploratory Study of the Perceptions of High-Risk Offenders Who Have Been Through Intensive Probation Supervision*, MSocSc (Social Work) thesis, University College Dublin

Bushway, S.D., Piquero, A.R., Broidy, L.M., Cauffman, E. and Mazerolle, P. (2001), 'An empirical framework for studying desistance as a process', *Criminology*, vol. 39, pp. 491–515

Case, S. (2006), 'Young people "at risk" of what? Challenging risk-focused early intervention as crime prevention', *Youth Justice*, vol. 6, no. 3, pp. 171–179

DeLisi, M. (2005), *Career Criminals in Society*, Thousand Oaks, CA: Sage

McNeill, F. (2005), *21st Century Social Work: Reducing Re-offending: Key Practice Skills*, Edinburgh: Social Work Inspection Agency & The Scottish Executive

O'Mahony, P. (2009), 'The risk factors prevention paradigm and the causes of youth crime: A deceptively useful analysis?', *Youth Justice*, vol. 9, no. 2, pp. 99–114

Wolfgang, N., Figlio, R. and Sellin, T. (1972), *Delinquency in a Birth Cohort*, Chicago: University of Chicago Press

Zara, G and Farrington, D.P. (2016), 'Chronic offenders and the syndrome of antisociality: Offending is a minor feature', *Irish Probation Journal*, vol. 13, pp. 40–64

Understanding Radicalisation: Implications for Criminal Justice Practitioners

Orla Lynch⋆

Summary: Over the past 16 years, academics and practitioners have made significant attempts to develop our understanding of the process by which individuals come to engage with violent extremism. In the case of terrorist violence, the process leading to engagement with extremist organisations came to be referred to as radicalisation, a loose and vague term that accounts for the means by which an individual comes to support, engage with or carry out a terrorist act in support of or as a member of a terrorist movement. A failure to account for the diversity of pathways into terrorism is a weakness in how we think about radicalisation and terrorism because, as with any other complex human behaviour (e.g. crime), we cannot causally link one isolated factor to the behaviour itself. This article advocates that there may not be a single identifiable *cause* for an individual's choice to engage in terrorism and instead we should consider that focusing on a range of psychosocial risk factors may be more appropriate. In addition, it highlights the limitations of psychometric assessment approaches to radicalisation. Existing best-practice approaches to dealing with prisoners and probationers, created within established criminal justice protocols, are most appropriate.

Keywords: Terrorism, radicalisation, criminal justice, practitioner.

Introduction

In recent years we have witnessed the rise to prominence of sub-state violence, linked to specific ideological positions, on Western targets (Sanger-Katz, 2016). As part of this phenomenon, within Europe a polarisation of identity positions has occurred whereby right-wing, neo-Nazi movements have positioned themselves as the defenders of Europe

⋆ Dr Orla Lynch is a psychologist and Lecturer in Criminology at University College Cork (email: orla.lynch@ucc.ie). She is also a fellow with Hedayah (GCTF) and a board member of the European Commission Radicalization Awareness Network (RAN).

against Islamic-inspired extremist violence (Tausch, 2016). In response, Muslim communities have rightly sought to defend their place in Europe, and civil rights anti-racist organisations have sought to counter the often inflammatory rhetoric of the right-wing movements (Lynch, 2013).

This dichotomy plays out at a local level but also at the national political level. The extremist rhetoric espoused by the violent right-wing factions as well as the extremist Islamist organisations is part of the rise of ideologically based identity movements. Fringe elements within right-wing movements and extremist Islamist organisations have carried out violence in pursuit of their ideological and organisational goals; the resulting terrorism is constructed as both a security threat to the West and an existential threat to national and regional values.

While this polarisation and the subsequent support for and engagement in terrorist violence seem to be intertwined, at least in terms of the narratives surrounding both, it is important that when we seek to understand political violence, we recognise it for what it is – a fringe, extremist phenomenon. We must bear in mind that the actions of terrorist actors are not necessarily the result of some clear-cut pathway that starts with social activism or radical politics and ends in violent extremism; it is vital that we take an evidence-based approach when attempting to understand terrorism.

Given the hype surrounding terrorism and the political currency of applying the label selectively (Horgan, 2005), we need to ensure that our analysis is grounded, and this is particularly the case for individuals working with perpetrators of political violence.

Terrorism and terrorist

When we seek to understand terrorism, it is vital that we separate the notion of *terrorism* from the *terrorist* (Lynch and Joyce, 2018). Terrorism is a highly politicised term, a pejorative label applied unevenly across groups and states potentially deserving of the label (Horgan, 2005). However, for criminal justice professionals acting within the confines of a particular legal system, the terrorist actor must be understood and considered in his/her local context in conjunction with the entirety of their social network, personal background, ideological affiliations and offending history.

Separating these two notions, *terrorism* and the *terrorist*, helps to ground our understanding of the individual perpetrator in the relevant realities of

their day-to-day life. For practitioners working with individuals convicted of terrorism or terrorism-related offences, taking such an approach is exceptionally revealing as it can expose the nuanced motives and justifications an individual may offer for their involvement in terrorism (or their desire to be involved), mundane as they may turn out to be. In addition, such an approach can reveal the process by which they came to be involved in the first place and as such offers significant insights for developing interventions appropriate for that individual.

A key issue here, which seems to proliferate through our understanding of terrorism and the process of radicalisation, is that of isolation: conceptual isolation, historic isolation and professional practice isolation. The issue of terrorism is not new, terrorism did not begin at 9/11, and dealing with terrorist actors in the prison and Probation services has long been a part of the normal functioning of the criminal justice system across Europe (Page, 1998). We know for example that in Germany, prison authorities are still dealing with members of the Red Army Faction. This is also true for the authorities in the UK and Ireland in relation to prisoners linked with paramilitary organisations, and Norway and Sweden regularly deal with right-wing terrorists within their prison system (Hemmingby and Bjorgo, 2015).

While all instances of terrorism are not directly comparable at a political level, the mechanisms that underlie radicalisation and terrorism are built on our understanding of individual and group behaviours. These processes are more accessible and identifiable than any politicised conceptualisation of terrorism and radicalisation. It is therefore important that we recognise the role of existing research that addresses separate but related issues of concern. These include pathways into crime from the discipline of criminology, group dynamics from the field of psychology, and social movements from sociology. Understanding terrorism and radicalisation cannot emerge solely from *de novo* analysis of current affairs, but should be constructed on a nuanced understanding of the components of the complex individual and group behaviours that constitute terrorism.

Engagement

Over the past 16 years, academics and practitioners across the globe have tried to develop our understanding of the process by which individuals come to engage with violent extremism (Horgan, 2005, 2014; Neumann, 2016). In the case of terrorist violence, the process leading to engagement

with extremist organisations or groups came to be referred to as radicalisation. This is a loose and vague term relating to the means by which an individual comes to support, engage with or carry out a terrorist act in support of or as a member of a terrorist movement (Schmid, 2013). The term has predominantly been used in conjunction with Islamic extremism post 9/11, but is increasingly applied to a broader range of ideological movements engaged in violent extremism (Schmid, 2013).

Regardless of the imprecise nature of the term 'radicalisation', it is widely used by practitioners, academics and policy-makers, often interchangeably with the terms 'extremism' and 'terrorism'. How these terms relate to each other, what if any is the causal relationship between them and what explanatory power they have is complex and contested (Neumann, 2013).

As mentioned, the term 'radicalisation' is popularly used to refer to some process that is assumed to culminate in terrorist activity; however, it does not explain how this process is undertaken or what the process might look like (Schmid, 2013). Radicalisation has often been portrayed, somewhat confusingly, as a causative process, leading to the presumption that the phenomenon itself is the *cause* of terrorist activity, but people engage in terrorism for many reasons: peer pressure, opportunity, family history, boredom, ideology, politics, etc. (Horgan, 2014).

Given that there are multiple reasons why people become involved in terrorism and many pathways into terrorism, we must be careful to separate the process of embracing radical ideas and/or engaging in radical behaviour from the motive for doing so (Moselenko and McCauley, 2011; Horgan, 2014). Also, one's stated motive for engaging in terrorism is often constructed after the fact and has a self-preserving purpose (e.g. claims of victimisation, oppression, defence of community) (Lynch and Joyce, 2016). There can be many varied motives for individuals who participate in political violence, and these motives can change retrospectively as the level of engagement with a group or network develops.

Another important issue for individuals working with perpetrators of terrorism and political violence is how we understand and attribute the *reasons* for radicalisation and ultimately involvement in terrorism. As with our understanding of crime, many hypotheses have been proposed to account for an individual's choice to engage in terrorism – mental health issues, poverty, oppression, disenfranchisement, etc. (DeAngelis, 2009) – but there is no 'silver bullet' (Corner and Gill, 2017).

Mental illness has not been definitively identified as a cause of terrorism, nor can we point to a particular combination of vulnerabilities to explain the choice to become involved. However, even if involvement in terrorism cannot be causally attributed to mental illness, such an approach is missing the point. The reasons for involvement are highly varied, and the ways in which they interact make it difficult to categorise the process of involvement meaningfully. Therefore, practitioners' focus should be dominated not by any (stated) ideological motives of the individuals, nor individual factors such as mental health, but by a holistic approach to understanding the individual, their interpersonal experiences, and their broader social interactions (Borum, 2011).

Radicalisation

Radicalisation is generally thought of as a journey of personal change, a shift from what might be considered a mainstream position to a more extreme condition – be that psychological or behavioural (Schmid, 2013). There is significant debate regarding how radicalisation happens, with some studies pointing to a key psychological moment (e.g. identity crisis), others to a contagion-type transmission of radicalisation between peer group members or between groups leaders and followers, and others still advocating that a progression through distinct stages of increasing commitment is central to the process.

As mentioned, a significant issue in thinking about radicalisation is that of ideology. Radicalisation can be thought of as a cognitive (psychological) change, a behavioural change, or both (Neumann, 2013). This means that that pathway into terrorism can happen both with and without an underlying ideological framework. However, non-ideological radicalisation is rarely attended to in the literature, and zero-sum categorisations such as ideological or non-ideological radicalisation rarely play out so cleanly in the real world.

> Evidence regarding radicalization focuses on violent radicalization as opposed to non-violent radicalization, thus introducing a systematic bias in the literature, away from any radicalization process preceding terrorism but not resulting in acts of violence. (Scarcella *et al.*, 2016: 1)

This brings us to the issue of *motive*, which is central to how we think about radicalisation. If a cognitive shift does occur, and an ideological

framework subsequently underpins an individual's move from a non-radical to a radical, violent position, we often attribute motive to the ideology itself. However, when there is a behavioural radicalisation, in the absence of an ideological framework, we often seek other explanations or motives for becoming involved in terrorism (e.g. friendship, boredom, opportunity). This points to the fact (Horgan, 2005) that there are multiple, diverse and even competing processes that lead to engagement in terrorist activity or with a terrorist group and that no one factor should be prioritised in our analysis.

De-radicalisation and disengagement

A diversity of ways of becoming involved in terrorism logically leads to the assumption that there are multiple ways in which an individual can disengage from terrorist activity. However, efforts at encouraging individuals away from terrorist activity are generally categorised into two types: de-radicalisation and disengagement (Marsden, 2017).

De-radicalisation implies a process of attitudinal change whereby the cognitions underpinning the support for terrorism, drawn presumably from some form of extreme ideology, are addressed (Horgan, 2009). Most often de-radicalisation is spoken about in relation to Islamic extremism and, more recently, violence inspired by right-wing terrorism. Disengagement refers to intervention focused on the behavioural component of extremism; for example, the means by which individuals might become less involved with a particular organisation and there might then be a reduction in terrorist activity (Lynch, 2015).

This distinction brings up a number of important issues that are relevant to how we conceptualise terrorism and the terrorist. For example, a focus on disengagement implies a tolerance for the radical ideology provided that it is not accompanied by violent actions. On the other hand, de-radicalisation implies the *removal* of or reduction of the radical ideas that are assumed to underpin the violent behaviour.

While this distinction may seem pedantic, it is politically a very potent issue. This approach informs how the criminal justice system treats extremists based on their stated ideological affiliations including the risk assessment of such individuals, how they will be supervised in the community, and how they will be held while incarcerated.

'Measuring' radicalisation

Given the type and level of terrorist violence we have witnessed in the West over the past 16 years, there have been significant efforts by researchers and practitioners to develop a means of risk-assessing individuals suspected and convicted of engagement in extremist violence. This includes an estimation of their level of dangerousness and an attempt to account for the likelihood of recidivism.

There is a general agreement in the literature that violence as carried out by terrorist actors is somehow different from that expected from, say, psychiatric patients or other institutionalised individuals. The belief in the difference was due to the unlikelihood that terrorist actors suffered from a significant mental illness (Corner *et al.*, 2016; Horgan, 2005), and that their motivations were thought of as altruistic and not necessarily for personal gain.

In an effort to meet the needs of prison and Probation services as well as the criminal justice system, a number of instruments were developed to account for the likely risk an individual extremist might pose to society on release as well as to other prisoners while incarcerated. Given the critique above of how we think about terrorism and radicalisation, one can see how risk assessment instruments might be problematic. Perhaps one of the greatest weaknesses of these tools is their emergence in isolation from other well-established violence risk assessment instruments. In addition, the method by which the instruments were developed and tested is problematic, and issues such as external validity remain in question (Sarma, 2017).

Given that we do not have agreement on the criteria that definitively identify the factors that lead to engagement in terrorist violence, nor any means of judging dangerousness as it relates to ideology etc., the tools that exist to risk-assess terrorist actors are problematic to say the least. In addition, due to the relatively low incidence of terrorism in comparison to other instances of violence, it is very difficult to develop a reliable instrument grounded in empirical research and sufficiently tested with a suitable sample (Scarcella *et al.*, 2016).

Generic risk assessment tools are used in the criminal justice arena and tested using a significant sample size, but increasingly there is a trend towards the use of specific tools that have been developed to measure the risk of radicalisation and/or terrorism; these instruments are mostly used in the prison and/or Probation setting (Scarcella *et al.*, 2016).

Overview of current risk assessment instruments

In the UK, the National Offender Management Service, recently renamed Her Majesty's Prison and Probation Service (HMPPS), uses the Extremism Risk Guidelines (ERG22+) (Ranstorp, 2017). This instrument assesses *22 factors of radicalisation* categorised into engagement, intent and capability. There was and is significant opposition to it, primarily because there was no peer review of the content in the public arena and the factors themselves were not released to the academic community for scrutiny. According to the *Guardian* (2016), more than 140 academics, including Noam Chomsky, protested against the use of the ERG22+ due to the lack of transparency around its development and deployment and the lack of scientific scrutiny of the assumptions that underpin it (Ross, 2016).

Another instrument used to assess individuals at risk of planning and executing a violent extremist attack is the VERA and its second iteration, the VERA 2 (Pressman, 2012). These are publicly available and are based on an analysis of beliefs, attitudes, historical background, commitment and motivation (Pressman, 2012). The VERA was designed to be used with individuals who are operational, i.e. actively engaged in extremist violence or having a history of extremist violence (Scarcella *et al.*, 2016). However, it is important to acknowledge that the VERA and VERA 2 are conceptual formulations based on the literature that already exists on radicalisation and terrorism (Scarcella *et al.*, 2016). Given the discussion above, we already know the weaknesses inherent in the literature, which are transplanted to the assessment tool.

Another instrument, recently developed by the Radicalization Awareness Network (RAN) Centre of Excellence and called the RAN Coe Returnee 45 (Ranstorp, 2017), aims to overcome the criticisms that have been levelled at radicalisation risk assessment instruments by taking a different approach.

The Returnee 45 is narrower in focus, as it is developed for use with returning foreign fighters (RFFs). It is an investigative tool rather than a risk assessment instrument, and aims to provide a framework for operational planning and intervention management. The tool is based on *risk behaviours* that have been identified in the literature and by experienced practitioners from across the EU who participate in RAN's working groups on RFFs and radicalisation. Like the VERA/VERA 2, the Returnee 45 includes *resilient* factors (factors that consider how an individual might be resistant to the process of radicalisation), but it also

focuses on how a multiagency intervention might be built around the individual RFF.

The Returnee 45 focuses on both internal and external measures of behaviour (e.g. grievance and the use of overt religious symbolism), cognitive styles (e.g. internal/external attribution, group identity bias) and social networks (online and offline). Personal/social history, trauma and disengagement processes are also accessed, as are integrative capacity, limits and personal and social resiliency (RAN Coe, 2017).

The Returnee 45 is strengthened by the fact that it is identified as a guide for planning rather than a tool for assessment, and it is aimed at assisting multi-agency interventions. The fact that it is heavily influenced by practitioner experience makes this planning instrument unique. However, like the other instruments available, it is yet to be tested with a suitable sample. Given that it does not make claims regarding its psychometric qualities, its utility as determined by a practitioner population, rather than its applicability to individual RFFs, may be the focus of review.[1]

The Irish experience

Despite the emergence of a range of assessment instruments in the radicalisation space, there is historical amnesia surrounding the assessment and management of risk. If we consider, for example, how political prisoners, or subversives (as they are known in the Republic of Ireland), were (and are) dealt with in Ireland and Northern Ireland over the past 30 years, we discover a relatively unique means of addressing the issue of terrorism and political violence by prisons and the Probation services. The approach in question was and is devoid of any effort to predict involvement (or dangerousness) using terrorism or political violence as a framework.

The issue of a radical ideology was and is tangential to the treatment of individuals by the criminal justice system in Northern Ireland and the Republic of Ireland both pre- and post-sentencing. There is no suggestion that there should be any effort to *de-radicalise* these individuals. In fact, individuals who share a particular ideological position (e.g. Loyalism or Republicanism) were and are housed together in specific prison wings (for example, Portlaoise Prison) (Page, 1998). In the case of the Troubles and the participants involved in that conflict, the focus was on desistance,

---

[1] The author is a member of the editorial board of RAN, but was not involved in the production of the RAN Coe Returnee 45 tool.

ensuring that Loyalists and Republicans paramilitaries did not offend again on release.

There was and is no question that the radical 'loyalist' or 'secessionist' ideologies that may or may not underpin their behaviours should be challenged. There is an understanding that involvement in political violence is about much more than one's political or ideological persuasion (Lynch, 2015). In addition, there was no political imperative to require the paramilitary groups to disband, but only to *disarm*, again pointing to a tolerance for both the ideologies and the paramilitary organisations, but not the violence. This is a very different approach to that currently being taken across Europe in response to terrorist actors who are not inspired by loyalist or secessionist ideologies.

There are very different means of dealing with terrorism in Northern Ireland as compared to Islamic extremist terrorism in England. The difference is fundamentally related to the political and ideological affiliations of the perpetrators as well as the existence of a peace process. A fear of the potential for a contagion effect in prison, whereby radical inmates might seek to draw ordinary prisoners to their cause, is also relevant.

Conclusion

In an effort to counter violent extremism (CVE) and prevent violent extremism (PVE), and in response to the upswing in violent Islamic extremism and violent right-wing terrorism over the past 15 years, states, international organisations, charities and research institutes have developed bespoke approaches for dealing with radicalisation and terrorism. These are based on particular interpretations of the role of ideology in radicalisation into terrorism as well as varied appreciations of the other psychosocial factors that are relevant to understanding the pathways into political violence.

However, these approaches become more controversial when we try to understand their rationale. According to the Peace Monitoring Report, since 2014, 50 individuals were shot by paramilitary groups in Northern Ireland and in 2016 alone, there were 72 causalities of the security situation in Northern Ireland (Wilson, 2016). This of course raises the question: why are such vastly different approaches taken to what is ultimately terrorist activity?

It brings us back to the issue of separating the 'terrorist' from the 'terrorism' and how this approach is useful for returning to first principles and understanding political violence as primarily law breaking, interpersonal violence and inter-/intra-group activity. Also, it brings up the question of learning from the past and the need for an open and holistic view when considering how best to deal with the more recent iterations of radical extremism.

As mentioned earlier, a belief that ideology is causal and so somehow responsible for one's involvement in terrorism underpins a de-radicalisation approach with the terrorist actor. This approach focuses on the details of the ideology, how the ideology may or may not be a misinterpretation of, for example, a holy book, how the subscription to that ideology impacts on the life trajectory of the individual in question, and other critical thinking and cognitive techniques. On the other hand, a recognition of the complexity of individual motives and the interactivity of individual and social processes and their relevance for involvement in terrorism suggests that attitudinal change alone is not sufficient or, in some cases, even appropriate.

It may be that a desistance or disengagement approach, where the emphasis is on an individual's social networks, reintegration (or integration) into an appropriate community, increasing an individual's social capital, ensuring opportunities to contribute to society (education, employment), and ensuring that the individual has a voice with which to express concerns, grievances, etc. related to their support for a violent campaign may provide better outcomes. In reality, however, despite the conceptual distinctions described, interventions that are undertaken across Europe with ex-prisoners convicted of terrorism and related offences are most likely to be a combination of the de-radicalisation and the disengagement approaches (Butt and Tuck, 2014).

A failure to account for the diversity of possible pathways into political violence is a weakness in how we think about radicalisation and terrorism because, as with any other complex human behaviour (e.g. crime), we cannot causally link one isolated factor to the behaviour itself. More problematically in the case of radicalisation, the possibility that there is no single identifiable cause for an individual's choice to engage in terrorism must be considered, and a focus on a range of psychosocial risk factors may be more appropriate.

We are still left with the desire to identify any vulnerabilities/risk factors, and that creates further problems. These vulnerabilities are

wide-ranging and do not necessarily discriminate between those who are (potentially) radical and those who are not or will never be. This challenge becomes all the more problematic when we attempt to measure risk, and identify potential radicals based on these risk factors or vulnerabilities. As mentioned earlier in this article, the factors that form the basis of any assessment method lack a solid empirical foundation, fail to discriminate between violent actors and non-violent actors and, as such, provide a false sense of security regarding our ability to identify high-risk individuals. Of course, we also risk falsely accusing individuals, with all the implications that this would bring.

This short review of the state of radicalisation research and assessment tools hardly does justice to the vast body of work that exists in this field and the excellent work of a number of scholars. It does highlight for criminal justice professionals some of the pitfalls inherent in exceptionalising terrorism and focusing overly on radicalisation as a causal and/or explanatory framework for understanding the choice to engage in political violence.

There is a reservoir of knowledge across Europe about how to deal with individuals who participate in political violence and terrorism that can and should be accessed by criminal justice professionals. This material (such as that produced by the RAN, Europe) is based on the experience of professionals who have worked with radicals, extremists, terrorists, subversives, etc. over the past four decades.

Overall, this article aims to highlight the limits of structured assessment approaches to dealing with radicalisation and, instead, recognise the strengths of existing best practice methods of dealing with prisoners and probationers within established criminal justice protocols.

References

Borum, R. (2011), 'Radicalization into violent extremism II: A review of conceptual models and empirical research', *Journal of Strategic Security*, vol. 4, pp. 37–62

Butt, R. and Tuck, H. (2014), *European Counter-Radicalisation and De-radicalisation: A Comparative Evaluation of Approaches in the Netherlands, Sweden, Denmark and Germany*, Institute for Strategic Dialogue Research Paper, available at http://www.eukn.eu/fileadmin/Files/News/De-radicalisation_final.pdf (accessed 15 June 2017)

Corner, E. and Gil, P. (2017), 'Is there a nexus between terrorist involvement and mental health in the age of the Islamic State?', *CTC Sentinel*, vol. 10, no. 1, pp. 1–10

Corner, E., Gill, P. and Mason, O. (2016), 'Mental health disorders and the terrorist: A research note probing selection effects and disorder prevalence', *Studies in Conflict and Terrorism*, vol. 39, no. 6, pp. 560–568

DeAngelis, T. (2009), 'Understanding terrorism', *Monitor on Psychology*, vol. 40, no. 10, p. 60

Hemmingby, C. and Bjorgo, T. (2015), *The Dynamics of a Terrorist Targeting Process: Anders B. Breivik and the 22 July Attacks in Norway*, Basingstoke, UK: Palgrave Macmillan

Horgan, J. (2005), *The Psychology of Terrorism*, Abingdon, UK: Routledge

Horgan, J. (2009), 'De-radicalization or disengagement? A process in need of clarity and a counterterrorism initiative in need of evaluation', *International Journal of Social Psychology*, vol. 24, no. 2, pp. 291–298

Horgan, J. (2014), *The Psychology of Terrorism* (2nd ed.), Abingdon, UK: Routledge

Lynch, O. (2013), 'British Muslim youth: Radicalization, terrorism and the construction of the "other"', *Critical Studies on Terrorism*, vol. 6, no. 2, pp. 241–261

Lynch, O. (2015), 'Desistance and de-radicalization – The case of terrorism and political violence', in S. Zeiger and A. Aly (eds), *Countering Violent Extremism: Developing an Evidence Base for Policy and Practice*, Perth, Australia: Curtin University Press

Lynch, O. and Joyce, C. (2016), '"Doing Peace": The role of ex-political prisoners in violence prevention initiatives in Northern Ireland', *Studies in Conflict and Terrorism*, available at http://www.tandfonline.com/doi/full/10.1080/105761 0X.2016.1253990 (accessed 11 August 2017)

Lynch, O. and Joyce, C. (2018), *The Psychological Processes of Terrorist Groups*, Oxford: Blackwell Wiley

Marsden, S. (2017), *Reintegrating Extremists: De-radicalization and Desistance*, Basingstoke, UK: Palgrave Macmillan

Moselenko, S. and McCauley, C. (2011), *Friction: How Radicalization Happens to Them and Us*, Oxford, Oxford University Press

Neumann, P. (2013), 'The trouble with radicalization', *International Affairs*, vol. 89, no. 4, pp. 873–893

Neumann, P. (2016), *Radicalized: New Jihadists and the Threat against the West*, London: IB Tauris

Page, M. Von T. (1998), *Prisons, Peace and Terrorism. Penal Policy in the Reduction of Political Violence in Northern Ireland, Italy and the Spanish Basque Country*, London: Macmillan

Pressman, E.D. (2012), 'Calibrating risk for violent political extremists and terrorists: The VERA 2 structured assessment', *British Journal of Forensic Practice*, vol. 14, no. 4, pp. 237–251

RAN Coe (2017), *RAN Manual. Responses to Returnees: Foreign Terrorist Fighters and Their Families*, available online at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/ran_br_a4_m10_en.pdf (accessed 26 August 2017)

Ranstorp, M. (2017), *Responses to Returnees*, Brussels: RAN Centre of Excellence

Ross, A. (2016), 'Academics criticise anti-radicalization strategy in open letter', *Guardian*, 29 September

Sanger-Katz, M. (2016), 'Is terrorism getting worse?', *New York Times*, 16 August

Sarma, K. (2017), 'Risk assessment and the prevention of radicalization from nonviolence into terrorism', *American Psychologist*, vol. 72, no. 3, pp. 278–288

Scarcella, A., Page, R. and Furtado, V. (2016), 'Terrorism, radicalization, extremism, authoritarianism and fundamentalism: A systematic review of the quality and psychometric properties of assessments', *PLoS ONE*, vol. 11, no. 12, e0166947

Schmid, A. (2013), *Radicalization, De-Radicalization, Counter-Radicalization: A Conceptual Discussion and Literature Review*, ICCT Research Paper, available at https://www.icct.nl/download/file/ICCT-Schmid-Radicalisation-De-Radicalization-Counter-Radicalisation-March-2013.pdf (accessed 11 August 2017)

Tausch, A. (2016), 'Muslim immigration continues to divide Europe: A quantitative analysis of European social survey data', *Middle East Review of International Affairs*, vol. 20, no. 2

Wilson, R. (2016), *Northern Ireland Peace Monitoring Report. Community Relations Council Report*, available at https://www.community-relations.org.uk/sites/crc/files/media-files/NIPMR-Final-2016.pdf (accessed 11 June 2017)

The 'Manageability of Risk' and Recall on Supervised Licence: Post-Release Pathways for Serious Violent and Sexual Offenders in Northern Ireland*

Alexandra Delimata and Mairead Seymour †

Summary: Extended custodial sentences (ECSs) for serious offenders were introduced under the Criminal Justice (Northern Ireland) Order 2008. These sentences combine custody with a subsequent period on supervised licence in the community during which offenders can be recalled to prison should their 'risk of serious harm' increase to an 'unmanageable level'. Using a documentary file analysis approach, the study investigates the outcomes for all ECS offenders released under supervised licence between 15 October 2010 and 31 December 2013 ($n = 57$). The recall rate was established at 54%, with nearly half of recalls occurring within four weeks of release. Collation of offender records developed profiles of the ECS offenders and examined characteristics of recalled ($n = 31$) and non-recalled ($n = 26$) offenders. The paper offers tentative observations as to why some offenders remained under licence in the community and others were recalled to custody. Analysis points to the potential of enhancing pre-release working relationships between offenders and supervisors, strengthening through-care supports to reflect the complexity of offenders' needs, and focusing on the integration of strengths-based approaches in risk management policy and practice.

Keywords: Recall, supervision, probation, risk management.

Introduction

In April 2009, the Criminal Justice (Northern Ireland) Order 2008[1] ('the Order') was enacted, which placed sentencing in Northern Ireland on a similar footing to the public protection sentencing framework introduced in England and Wales under the Criminal Justice Act 2003. The legislation introduced three types of public protection sentence: the Indeterminate Custodial Sentence (ICS), the Determinate Custodial Sentence (DCS) and, the focus of this paper, the Extended Custodial Sentence (ECS). The criteria for an Extended Custodial Sentence (ECS) are that an offender has committed a serious and/or violent offence and is assessed as posing a risk of serious harm (defined as death or serious physical or psychological injury) which cannot be safely managed in the community. ECSs combine a custodial period of up to five years for violent offences and up to eight years for sex offences followed by a mandatory supervised licence period of a comparable length of time. Halfway through the custodial period, at their Parole Eligibility Date, ECS offenders are reviewed by the Parole Commissioners for Northern Ireland (PCNI) to determine whether their risk has reduced to the point where they can be safely released for the supervised part of their sentence. Whether or not their assessed risk level has reduced, ECS offenders are automatically released at the Custody Expiry Date (CED) to start the licensed portion of their sentence under the supervision of the Probation Board for Northern Ireland (PBNI).

The Northern Ireland Prison Service (NIPS) on behalf of the Department of Justice (Northern Ireland) issues ECS licences. The licences contain standard conditions, such as a requirement to maintain contact with the supervising Probation Officer, not to commit an offence, and not to behave in a manner that undermines the purposes of the release on licence, which are 'the protection of the public, the prevention of re-offending and the rehabilitation of the offender' as outlined in Article 24(8)(b) of the Order. On the recommendation of the PCNI and/or the PBNI, additional conditions can be attached to the licence depending on the assessed risk factors of the offender and the nature of the offence. These conditions can include a ban on alcohol consumption, a curfew, a ban on contact with named victims, and a requirement to reside in PBNI-approved hostel accommodation and/or to participate in offending-related or therapeutic programmes. By signing the licence at the point of release, the ECS offender is understood to have agreed to abide by these conditions.

[1] http://www.legislation.gov.uk/nisi/2008/1216/made

Articles 28 to 31 of the Order allow for the recall into custody of released ECS offenders during their supervised licence period. The test to determine if an ECS offender should be recalled is whether 'there is evidence that proves, on the balance of probabilities, a fact or facts indicating that the risk of that offender causing serious harm to the public has increased more than minimally since the date of release on licence and that this risk cannot be safely managed in the community'.

The evidence suggests that public protection sentenced offenders in Northern Ireland are treading the same fast path back into custody as parolees elsewhere, a situation referred to as a 'revolving door at the prison gate' (Padfield and Maruna, 2006: 329). In the US, parole violators comprised 9% of those in custody in 2015 (US Department of Justice, 2015), while in England and Wales, recalled prisoners accounted for 6% of the prison population in 2016 (Ministry of Justice, 2017). By August 2015, 2505 offenders sentenced under the Order had been released in Northern Ireland and 723 had been recalled into custody (Criminal Justice Inspection Northern Ireland (CJINI), 2016).

Recall has consequences beyond its immediate primary purpose of protecting the public from risk. So-called 'back-end' sentencing, the practice of returning individuals to custody from supervised licence, can leave an offender facing incarceration without due process, raising questions of procedural fairness (Padfield, 2007). With a history of recall, offenders may face future parole hearings with a heightened risk assessment and increased likelihood of risk-averse decision-making (Delimata, 2014). Furthermore, the aftermath of recall can lead to disengagement on the part of both offenders and the agencies involved in their cases, with potential long-term implications for future offending (Digard, 2010). With the threat of an increasing proportion of the prison population in post-recall custody and high-risk offenders seeming to 'fail' more frequently than other offenders, it is necessary to understand the issues and dynamics underpinning recall rates.

Explanations for recall rates are 'complex and multi-faceted' (Weaver *et al.*, 2012: 95) yet the parameters of the data available for this study necessitated that it focused primarily on individual offender profiles as a framework to explore recall. Consequently, the paper says less about the impact of the criminal justice system on recall outcomes and instead seeks to provide insight into the post-release pathways of 57 ECS offenders released on licence in Northern Ireland between 15 October 2010 and 31 December 2013. Based on a comprehensive analysis of

file data information, this paper examines their background history and circumstances at the time of release to provide exploratory insight into recall outcomes.

The recall process in Northern Ireland

The process of recall involves several agencies. The PBNI initiates recall proceedings and its request is forwarded to the Public Protection Branch (PPB) at the Department of Justice, which refers the case to the PCNI together with a dossier containing a PBNI recall report detailing post-release events, the offender's criminal record, a copy of the licence, the pre-sentence report giving the offender's social and offending background, and normally, for alleged new offending, a Statement of Facts from the police.

Within a maximum of 24 hours, a single parole commissioner issues a recommendation either for or against recall under Article 28(2)(a) of the Order, which is forwarded to the PPB, who are responsible for the revocation of the licence. At this stage, there are no representations from the offender.

After recall, the offender must be informed of the reasons for his recall and is entitled to legal representation when the recall is reviewed under Article 28(3) of the Order by a single commissioner and/or by a panel of three commissioners, a process that takes a minimum of 12 weeks. If release is not directed, a date is fixed for the next review and recommendations are made to address risk factors, leaving ECS offenders potentially facing the remainder of their licence period in custody.

Previous recall research

Large-scale, mainly US-based quantitative studies have addressed the question of *who* is likely to be recalled, analysing rates of recall or parole revocation, characteristics of recalled offenders and possible contributing factors (Hughes *et al.*, 2001; Petersilia, 2003). Only a small body of more recent literature has considered the question of *why* offenders are recalled, looking beyond the features of recalled offenders to the wider effects on offenders of supervision and the decision-making processes of recall (Bahr *et al.*, 2010; Bucklen and Zajac, 2009; Digard, 2010).

Continuing the quantitative research tradition, Grattet *et al.*'s (2008) study of 250,000 individuals in California found that likelihood of recall declines with age and increases with length of criminal record,

and that proportionately more men (particularly African-American and Hispanic offenders) than women were likely to be recalled. Steen and Opsal (2007) outline that those convicted of serious crimes and subject to sentences of more than one year were 80% more likely to be recalled for technical violations and far more likely to be recalled for new offences than offenders convicted of more minor offences and serving shorter sentences. In a possible explanation for the high rate of new offending among more serious offenders, recidivism research suggests that lengthy and frequent custodial periods separate offenders from support networks and loosen both family and community ties (Duwe and Clark, 2013; Petersilia, 2003).

It has long been established that a high proportion of offenders on parole recidivate shortly after release (Hakeem, 1944). Grattet *et al.*'s (2008) study found that the risk of violation rose sharply in the first 90 days, was high in the first 180 days after release, but after a year had dropped by 80% compared to the initial figure. In his study of 12,000 former inmates in New Jersey, Ostermann (2011) suggested that over time an offender becomes more integrated into the community. Ostermann did not consider, however, possible additional discretionary factors at play, including the potential impact of 'light touch' supervision towards the end of the licence period or reluctance on the part of agencies to recall a hitherto successful parolee for breaches that might have resulted in recall earlier in the supervision period.

Ostermann's research (2011) indicated that those on supervision over a three-year post-custody period were less involved in new offences than those released unconditionally. Supervision acted as a protective factor despite the increased hazard of technical violations (Grattet and Lin, 2016). For those under supervision, reoffending is less likely to remain undetected under a watchful Probation eye or from police round-ups of the 'usual suspects'. However, a later study of post-supervision recidivism rates of nearly 3000 parolees concluded that parole supervision does not have long-lasting rehabilitation effects (Ostermann, 2013). Research from England and Wales reports similar findings, with parolees initially reoffending less than their non-licensed counterparts, but at the three-year point showing no significant statistical difference in offending rate (Lai, 2013). The conclusion drawn from these studies is that supervision appears to be effective at reducing reoffending, but only in the short term.

The importance of comprehensive and flexible resettlement services and supports for successful re-entry has been highlighted in previous

literature (Petersilia, 2003; Carr *et al.*, 2016; Clark, 2015). Reductions in post-release reconviction rates of 40% were found if offenders on licence were given wide-ranging welfare support (Clark, 2015) or in the case of those with mental illness who attended an enhanced day reporting centre (Carr *et al.*, 2016).

There has been limited research, however, into the role of informal support on the likelihood of recall, which is perhaps surprising given that family support is viewed as a crucial factor in eventual desistance (Duwe and Clark, 2013; Laub and Sampson, 2003). Bucklen and Zajac (2009) surveyed 542 parole violators in Pennsylvania and conducted focus groups and interviews with 62 recalled offenders. Those who were deemed parole successes (defined as being without violations over a three-year period) were significantly more likely to be in a supportive relationship and employed. While caution must be exercised given that findings were based on self-reports from a low response rate of 30%, similar conclusions were confirmed in a later Dutch study of 12,000 parolees (Lamet *et al.*, 2013).

Methodology

The research design used a documentary file analysis approach to gather quantitative and qualitative data. The study sample was the population of 57 ECS offenders released on supervised licence since the introduction of the Order in 2008, between 15 October 2010 and the end of 2013.[2] The sample comprised offenders who had been recalled during the period (*n* = 31) and those who had successfully completed at least seven months on supervised licence (*n* = 26). The time frame for the study was from January to September 2014.

Data was sourced from the PPB, the PCNI and the PBNI. The process of securing access to the material involved a series of meetings with key personnel in the relevant agencies. These meetings covered agreement on the nature of the data required, logistical considerations, data security and ethical issues. Ethical clearance was sought from the School of Languages, Law and Social Sciences at the Dublin Institute of Technology where the study was conducted. Specific consideration was given in this application to potential conflicts of interest in light of one of the authors' position as a Parole Commissioner in Northern Ireland.

---

[2] Four offenders were excluded from the sample; two were in prison for other offences although the custodial portion of their ECS sentence was completed, one because his sentence was not subject to the standard supervision arrangements and one because he had been deported on release.

The main source of data was PPB dossiers for each recalled offender, typically between 170 and 300 pages in size, which included details of the offenders' background and criminal record, reports from participation in interviews, interventions, recall and custodial behaviour reports and post-release details. The PCNI provided recall recommendations and the PBNI provided contact supervision reports, pre-sentence reports and other details for the offenders who had not been recalled. Information from the three agencies was cross-referenced to establish the recall rate and to check data validity. A meeting was also held at the end of the study with the PBNI and the PPB to review the findings and ensure that case details were appropriately anonymised.

Individual profiles were constructed in a modified life grid format to chart offenders' social background and circumstances, mental and emotional health, offending, custodial and post-release history. These profiles were used as the base for descriptive statistics which established characteristics of the ECS population. The small size of the ECS population demanded a cautious approach in order to maintain subject confidentiality.

Findings

Setting the context: profile of ECS offenders
Criminal history data indicated that ECS offenders in this study had been convicted of an average of 51 offences covering a broad range from the prolific offender to those who had a single conviction. The majority (74%) were first convicted aged 17 years or under, 18% were aged 18 to 24 years and 8% were 25 years and over. Analysis of the data identified that over three-quarters (77%) were classified as violent offenders and 23% as sex offenders.

The vast majority (97%) were male, 40% were aged 20-29 years, 26% aged 30-39 years and over one-third (34%) were aged 40 years or over. Highlighting the high assessed risk of this group, 95% of offenders were on remand in prison custody at the point of their ECS sentence. Most (82%) had spent at least four months on remand prior to sentence with 41% having spent almost one year or more on remand.[3] Over two-thirds (67%) were given sentences of three years or more with the remainder (33%) sentenced to between one and two years. A combination of time spent in

---

[3] From the file data it was possible only to calculate time spent on remand, not the underlying reason for the remand status of the offender.

custody on remand and under sentence meant that many offenders were released on licence after spending a considerable time incarcerated.

The extent to which the profile of ECS offenders converges with other prisoner groups in Northern Ireland is difficult to identify given the dearth of comparable literature. The available evidence suggests that commonalities exist in the areas of mental health, substance misuse and trauma (CJINI, 2015; O'Neill, 2016). The following section attempts to set the context of offenders' release and post-custody supervision by providing insight into their background and circumstances prior to and during the custodial detention period.

Social, educational and vocational background

Sufficient information was available in the dossiers for 52 of the 57 offenders to assess that 77% of the 52 had grown up in difficult circumstances based on at least three of the following factors being present: social services' involvement, a history of residential care, sexual abuse when a child, expulsion and/or suspension from school, parental separation or death, parental substance abuse, offending and/or domestic violence.[4]

It was apparent from the documentation that individuals' backgrounds were characterised by an absence of nurturing, described in the files as 'traumatic', 'very disturbed', 'involving severe abuse and neglect', and/or rejection. The data identified that 25% of the ECS population had experienced the death of a parent in childhood. While these losses occurred against the background of 'the Troubles' in Northern Ireland, reported alcoholism, violence and other risk behaviours were indicated in a number of parental deaths. Furthermore, according to the file data, 17% had made disclosures that they had been sexually abused as children.

Data on educational background was available for 43 (75%) offenders. The average school leaving age was 15.75 years, and over two-thirds left school with no qualifications. Three-quarters had been expelled or suspended from school.

Of the 52 cases for which information was available, 17% of the sample could be considered to have worked regularly before their most recent custodial sentence and 44% had very limited work experience (characterised by a few months of casual work interspersed with several

---

[4] Where data were not complete for either the total ECS group or sub-groups, the number for which information was available is indicated.

years of unemployment). A further 38% (*n* = 20) had never worked, and attributed this to having spent long periods of their adult lives in custody or to mental health and/or substance abuse problems that hindered employment.

Of 49 ECS offenders for whom information was available, 61% (*n* = 30) were living with family members (either parents or a partner) before their ECS sentence (or related remand period), 16% (*n* = 7) were living independently, mostly in rented accommodation, and 23% were living in hostel accommodation.[5]

Mental health and substance misuse

The data revealed that mental health issues were common among the group before and during their custodial experience. Mental health issues were verified in the documentation by self-report data, health care reports, psychology and psychiatry reports and the implementation of Supporting Prisoners at Risk (SPAR) measures due to concerns about an offender's emotional or mental health in custody.[6] Drawing on this information, 75% of the sample was identified as having mental health issues. Incidents of self-harm were noted in 42% of cases (*n* = 24) and 10 offenders were identified in the documentation as having made previous suicide attempts.

Substance misuse was classified as present if self-reported in the file data, if identified as a risk factor by PBNI, if the offender was participating in an intervention to address misuse and/or if an alcohol or drug ban was a condition attached to the licence. Using these criteria, three-quarters of ECS offenders were identified as having alcohol abuse problems and a similar proportion (72%) had drug misuse issues.

In over half (54%) of the files reviewed both drug and alcohol problems were noted. Drug misuse was notably high in the 20 to 29 year age group, where it was reported in 96% (*n* = 23) of cases. When the data were cross-referenced it emerged that 95% of those with indications of mental health problems also misused substances.

---

[5] Information was not available to ascertain whether hostel accommodation was due to homelessness or as a condition of a previous court order.

[6] A SPAR process is initiated when a prisoner is identified as being at risk of self-harm, and in need of additional, immediate care and support. It provides a multi-agency approach to monitor and protect the prisoner during periods of personal crisis.

Interpersonal relationships and family support

The presence of family support was established if at least three of the following factors were outlined in the documentation: family custodial visits, family contact, specific mention of a supportive family member by the offender, supportive family member reported by PBNI, offenders were living at the family home before custody, offenders were living at the family home after custody. On this basis, 49% of offenders had some level of family support, 21% had limited support (for example, only sporadic telephone contact with family members outside of Northern Ireland) and 30% had no family support. From the available data, only 12% ($n = 7$) reported being in a supportive relationship with a partner before their release. Of these seven cases, three had recorded incidents of domestic abuse against their partners. Indeed, the perpetration of domestic violence characterised the intimate relationships of a considerable number of the sample. The file data indicated that almost one-third ($n = 18$) of the ECS offenders had been violent to their current or past partners. Assault of a partner had resulted in two offenders' current sentences, and in three cases disputes with ex-partners were a contributory factor in their subsequent return to custody. The problematic nature of relationships extended to the children of ECS offenders; although 53% ($n = 30$) were parents, half had either little or no contact with their children.

Release and recall: comparing recalled and non-recalled offenders

Half of all offenders in the study were released early, before their CED, on the basis that parole commissioners considered their risk of reoffending had reduced to the point that they could be managed safely in the community. Nevertheless, most offenders were assessed by PBNI as having a high likelihood of reoffending based on the Assessment Case Evaluation (ACE) risk assessment tool,[7] and 81% also met the PBNI criteria of posing a significant Risk of Serious Harm (RoSH) at the time of their release.[8] According to the file data, offenders tended to have few if any opportunities to establish connections in the community prior to their release, including with the individuals and services tasked with monitoring and supervising them post-release.

The average licence period was 18 months; however, analysis of offenders' records identified that 31 of the 57 (54%) ECS offenders

[7] Assessment, Case Management and Evaluation system. A Practical Guide http://bit.ly/2sLjQ5u
[8] The PBNI RoSH assessment is based on past serious violent or sex offending, risk factors as well as the nature of the current offence.

released between 15 October 2010 and 31 December 2013 had been recalled to custody by 31 July 2014. Four offenders were subject to two recalls and one was recalled three times. Over half ($n = 16$) of recalls took place within four weeks of the offenders' release and of these recalled cases, most occurred within one week or less. Before we explore the reasons underpinning these recalls, the following provides insight into the differences in the profile data of the recalled ($n = 31$) and non-recalled ($n = 26$) groups. In so doing, it seeks to offer tentative observations as to why some offenders remained under licence in the community and others were recalled to custody. The modest sample sizes of both groups caution against drawing generalisations from the data.

Recalled offenders were found to have poorer custodial discipline records than their non-recalled counterparts and were almost twice as likely to have at least one breach of prison rules. However, by the end of their ECS, there was no discernible difference in the proportion of recalled and non-recalled offenders on an enhanced status regime.

Maruna (2001) considers that desire to change and take on a new identity is at the heart of a successful transition to desistance. According to the documentation, recalled and non-recalled offenders expressed similar levels of a desire to change their behaviour. A desire to change or transform was recorded in the files of 53% of offenders ($n = 30$), half of whom were recalled and half of whom were not. 'Becoming a better person', 'wanting a normal life', 'valuing family life', 'wanting to be there for their children' in a way that they had not experienced were the types of reasons underpinning offenders' wish for change.

Analysis of the data identified that 71% of offenders were required to reside in PBNI-approved hostel accommodation as part of the conditions of their release. The purpose of such accommodation was to provide an environment where offenders' risk levels could be closely monitored. For some, this was a mandatory short-term period of testing before returning home. For others, hostel accommodation was a longer term requirement arising from their ongoing high level of assessed risk and/or support needs, including a lack of alternative accommodation options.

It was noteworthy that 84% ($n = 26$) of recalled offenders went to hostel accommodation on release, compared to just 54% ($n = 14$) of non-recalled offenders, suggesting higher assessed levels of risk and need. There was some evidence to indicate that recalled offenders were more likely to have a history of unstable living circumstances. Prior to their sentence, 29% ($n = 9$) of the recalled group had been living in hostel

accommodation and 38% (n = 12) had a history of homelessness, compared with 8% (n = 2) and 4% (n = 1) of non-recalled offenders respectively.

While this cannot claim to be a comprehensive account of offenders' perspectives, it is interesting that one quarter of the offenders scheduled to reside in hostel accommodation on release were recorded in the file documentation as expressing reluctance about the move. The documentation highlights that offenders felt 'set up to fail', 'unable to cope with negative influences' and/or resentful about being away from their family and loved ones. One offender had been determined to 'stick it out' but stayed away from the hostel as much as possible before finally going unlawfully at large.

McAlinden (2016: 5) refers to the importance of avoiding labelling offenders and providing opportunities for 'an alternative future identity' away from offending. Yet it appeared that hostels were perceived by some offenders as copper-fastening the 'risk' label through their enforced association with other offenders and the rules and regulations associated with behaviour management within the hostel environment. The use of hostel accommodation as a post-release strategy epitomises the competing demands on the criminal justice system to monitor risk and address public protection concerns on one hand, and to provide a stepping stone towards resettlement on the other.

Meaningful involvement with training and employment has been found to be an important aspect of validating an individual's identity in a prosocial way and supporting the desistance process (Sampson and Laub, 1993). Recalled offenders were particularly alienated from successful employment pathways insofar as they were almost twice as likely never to have worked than their non-recalled counterparts prior to their most recent custodial period. According to the documentation, at the point of release over half of non-recalled offenders were involved in a training or employment placement compared to just one quarter of their recalled counterparts. Such evidence points to an elevated level of social integration among non-recalled offenders.

Families play a vital role in encouraging successful resettlement and desistance through the provision of support and informal social control for offenders (Farrell, 2002; Visher and Travis, 2011; Weaver and Barry, 2014). A notable finding to emerge across the file data for ECS offenders was the practical and sometimes emotional nature of family support. Families accompanied offenders to appointments, were described by

PBNI as positive influences in six cases, monitored offenders' behaviour in two other cases, provided temporary family accommodation on release or at crisis points, and provided work opportunities and other structured activities, such as football and fishing.

Family support was over twice as common among non-recalled offenders when compared to their recalled counterparts in this study. Overall, 69% ($n = 18$) of non-recalled offenders compared with just under one-third ($n = 10$) of recalled offenders had some form of family support. Furthermore, 31% ($n = 8$) of non-recalled offenders formed relationships with new partners which were described by the offenders themselves as providing stability and supportive of them desisting from crime. In contrast, it appeared from the records that recalled offenders were less likely to establish new relationships, and those that did described them as creating crises in their lives. For three offenders, instability following a break-up set in motion events that led to recall. The protective factor of a stable relationship suggests that informal social control can play a part in supporting formal social control (Hirschi, 2009; Laub and Sampson, 2003).

Recalled offenders not only appeared to have fewer meaningful attachments and lower levels of social capacity but were also more likely to have substance misuse and mental health issues at the time of release. These issues are not insignificant in light of evidence linking them with licence violations and recall (Bucklen and Zajac, 2009; Steen *et al.*, 2013). In the current study, the vast majority (94%, $n = 29$) of recalled offenders were identified in the documentation as having alcohol misuse issues, and poly-substance misuse was present in 71% ($n = 22$) of cases in comparison to 54% ($n = 14$) and 29% ($n = 9$) for non-recalled offenders.

Recalled ECS offenders were found to be especially vulnerable; poly-substance misuse and mental health issues were recorded in 74% ($n = 23$) of recalled cases in comparison to 27% ($n = 7$) of the non-recalled group. These data indicated that substance misuse, mainly alcohol, was often the initiating factor that led to recall, particularly for offenders recalled soon after release.

Reasons for recall and the role of professional discretion
New charges were implicated in 61% ($n = 19$) of all recalls, and breaches of licence conditions accounted for the remaining 39%. Substance misuse (predominantly alcohol) featured prominently in the reasons for recall. It was implicated in the cases of 71% ($n = 11$) of those recalled within four

weeks and it was also conspicuous ($n = 16$) in the narratives of cases of alleged new offending.

Breach of the requirement to maintain contact with PBNI was considered as evidence of 'unmanageability in the community' for evident reasons; if the whereabouts of the offender was unknown to Probation then the offender's risk could not be considered as being managed in the community. In one case, breach of an alcohol ban also led to subsequent eviction from a hostel: another breach, demonstrating a domino effect with the potential to lead to recall.

Breach of the licence condition requiring offenders to avoid 'behaving in a way which undermines the purpose of the licence' covered less tangible areas of offender non-compliance. This 'catch-all' condition, which is open to subjective judgement or discretionary decision-making (Kerbs *et al.*, 2009), covered behaviour described by supervising Probation Officers in recall reports as 'complete disengagement' from supervision to gradually 'pushing the boundaries' of the licence: a perceived measure of increasing risk which resulted in recall proceedings for two sex offenders.

New incidences of offending were not inevitably a reason for recall; four offenders who appeared from the documentation to have committed offences during the licence period were not recalled due to a degree of discretionary decision-making on the part of agencies based on whether the alleged reoffending was assessed to have the potential for serious harm. For example, an assault committed the day after release led to the immediate recall of one offender whereas, in another case, an offence of driving without a licence did not.

Professional discretion also appeared to be exercised in judgements about the seriousness or otherwise of breaches of licence conditions. Likelihood of recall proceedings being initiated was high if there was a causal link between the type of licence breach and the circumstances of the original offence (such as the breach of an alcohol ban in the case of an alcohol-related violence conviction). While failure to comply with licence conditions potentially placed offenders at risk of recall, the records identified that a breach of licence conditions did not necessarily constitute grounds for recall. For example, the dossiers contained numerous examples of curfew breaches or missed supervision appointments, each of which would generally attract a PBNI warning, but if the supervisor considered that the offender was still 'manageable' in the community, recall proceedings were not initiated at that point.

Any decision to postpone recalling the offender was not without consequences, and incidences of non-cooperation and non-compliance were systematically recorded. Inevitably, licence conditions were breached on the road to recall, and an accumulation of these types of breaches was evidenced in the recall reports as a demonstration of an escalating pattern of disengagement from supervision and described as indicating an increase in risk and unmanageability in the community.

Discussion

Non-recalled offenders entered the prison system with lower levels of vulnerability and greater stability in the areas of housing, employment and relationships than recalled offenders. While there was limited difference in the desire for change between the two groups at the time of release, the data suggested that non-recalled offenders had greater cumulative personal and social capacity to manage the challenges of the post-release period.

Profound and complex needs including substance misuse and mental health difficulties, coupled with limited supports, characterised the post-release pathways of many recalled offenders. A high level of risk and complex unmet needs points to the necessity of enhanced levels of service provision in the areas of housing, employment, family support, substance misuse and mental health.

The high proportion of offenders recalled within a short period of time further emphasises the challenges experienced in avoiding reoffending and complying with licence requirements. Weaver *et al.* (2012: 93) argue that 'structural constraints' on prisoners post-release are a neglected feature of recall policy, and argue for a through-care approach that provides services and supports during and after the custodial period.

Since 2015, an element of through-care has been incorporated into the system in Northern Ireland in the form of Reset (Intensive Resettlement and Rehabilitation Project), a paid mentoring scheme for prisoners leaving custody (Hamilton, 2016). While the intervention is a welcome development, contact commences with the offender four weeks prior to release and extends to a maximum of 12 weeks post-release in most cases. The background of the difficulties experienced by ECS offenders raises questions about the limited time period available to support longer-term change and resettlement.

McAlinden (2016: 16) highlights the importance of integrating strength-based thinking into risk management practice and supporting

approaches that move 'beyond risk' to broader considerations of 'social reintegration'. This proposed strategy does not neglect risk but instead adopts 'proactive approaches' to risk management (McAlinden, 2016: 9) and locates it within a broader context that seeks to facilitate offender reintegration and desistance from offending. Such an approach is likely to require increased emphasis on a diversity of structures and systems to support offenders' transition from custody and their sustained resettlement in the community.

The existing literature suggests that the establishment of working relationships between supervisors and offenders is an important starting point to engage offenders and encourage their compliance in the community (Ugwudike, 2010). This is attributed to opportunities for expectations of supervision to be communicated and the provision of practical, social and emotional support which in turn may improve offenders' perceptions of the legitimacy of the supervisory process (Seymour, 2013). Unlike others sentenced to community sanctions, ECS offenders do not 'consent' to the order at court (Lamont and Glenn, 2015: 50), and consequently more intensive efforts may be required to engage them in post-release supervision. The absence of formalised opportunities for such engagement before release is noteworthy in light of the high proportion of offenders recalled shortly after release.

As outlined earlier in this paper, the documentation constructed on offenders' journeys through the criminal justice system details their life circumstances, offending history, nature of offending, and levels of assessed risk over time. In the absence of formalised arrangements for pre-release contact between offenders and supervisors, file documentation may serve as the primary source of data available to inform decision-making about offenders' (dis)engagement, especially at the early stages of post-release supervision. While the evidence suggests that supervisors' decision-making is based on a multiplicity of factors (Seymour, 2013), it is suggested that opportunities for pre-release engagement with offenders also provide a more nuanced context to the written documentation and potentially enhance the quality of information on which decisions are based. This is pertinent in Northern Ireland, where a considerable degree of subjectivity exists in the legislation pertaining to ECS offenders. In line with practice elsewhere (Weaver *et al.*, 2012), practitioners have scope to exercise discretion in their decisions about the acceptability or otherwise of licensees' attitude and behaviour.

Conclusion

The background information on offenders at the point of entry and release from prison set the context from which the challenges of post-release supervision were discussed in this paper. While the ECS group had commonalities in the adversity of their background circumstances, it was the degree of vulnerability, including extent of psychological and emotional need, attachment, and social capacity, that appeared to differentiate the recalled and non-recalled groups at the time of release. The implications suggest the need for greater emphasis on strengthened and sustained through-care to facilitate the multiplicity of offenders' needs and a further shift towards the integration of strengths-based approaches into risk management policy and practices.

Acknowledgements

References

Bahr, S., Harris, L., Fisher, J. and Armstrong, A. (2010), 'Successful reentry: What differentiates successful and unsuccessful parolees?', *International Journal of Offender Therapy and Comparative Criminology*, vol. 54, no. 5, pp. 667–692

Bucklen, K. and Zajac, G. (2009), 'But some of them don't come back (to prison!): Resource deprivation and thinking errors as determinants of parole success and failure', *Prison Journal*, vol. 89, no. 3, pp. 239–264

Carr, W.A., Baker, A.N. and Cassidy, J.J. (2016), 'Reducing criminal recidivism with an enhanced day reporting center for probationers with mental illness', *Journal of Offender Rehabilitation*, vol. 55, no. 2, 95–112

Clark, V.A. (2015), 'Making the most of second chances: An evaluation of Minnesota's high-risk revocation reduction reentry program', *Journal of Experimental Criminology*, vol. 11, no. 2, pp. 193–215

Criminal Justice Inspection Northern Ireland (2015), *Report on an Unannounced Inspection of Maghaberry Prison*, available at http://www.cjini.org/TheInspections/Inspection-Reports/2015/October---December/Maghaberry-Prison (accessed 12 August 2017)

Criminal Justice Inspection Northern Ireland (2016), The impact of prisoner recalls on the criminal justice system in Northern Ireland, available at http://www.cjini.org/getattachment/f491d48d-7c82-4459-9dc2-830223db93fc/picture.aspx (accessed 12 August 2017)

Delimata, A. (2014), *A Study of Serious Violent and Sexual Offenders Released on Supervised Licence in Northern Ireland between 2010 and 2013*, Dublin Institute of Technology, available at http://arrow.dit.ie/aaschssldis/72/ (accessed 12 August 2017)

Digard, L. (2010), 'When legitimacy is denied: Offender perceptions of the prison recall system', *Probation Journal*, vol. 57, no. 1, pp. 43–61

Duwe, G. and Clark, V. (2013), 'Blessed be the social tie that binds: The effects of prison visitation on offender recidivism', *Criminal Justice Policy Review*, vol. 24, no. 3, pp. 271–296

Farrell, S. (2002), *Rethinking What Works with Offenders: Probation, Social Context and Desistance from Crime*, Cullompton, UK: Willan

Grattet, R. and Lin, J. (2016), 'Supervision intensity and parole outcomes: A competing risks approach to criminal and technical parole violations', *Justice Quarterly*, vol. 33, no. 4, pp. 565–583

Grattet, R., Petersilia, J. and Lin, J. (2008), *Parole Violations and Revocations in California*, Final Report for National Institute of Justice, Washington, DC, available at http://www.ncjrs.gov/pdffiles1/niji/grants/224521.pdf (accessed 12 August 2017)

Hakeem, M. (1944), 'Parole prediction variables and the time factor in violations by burglars', *Journal of Criminal Law and Criminology*, vol. 35, no. 3, pp. 157–165

Hamilton, S. (2016) 'Reset: An opportunity to enhance offender resettlement and rehabilitation through mentoring', *Irish Probation Journal*, vol. 13, pp. 134–142

Hirschi, T. (2009), *Causes of Delinquency*, New Brunswick, NJ: Transaction Publishers

Hughes, T., Wilson, D. and Beck, A. (2001), *Trends in State Parole, 1990–2000*, Bureau of Justice Statistics, available at http://www.bjs.gov/index.cfm?ty = pbdetailandiid = 1135 (accessed 12 August 2017)

Kerbs, J., Jones, M. and Jolley, J. (2009), 'Discretionary decision making by probation and parole officers: The role of extra-legal variables as predictors of responses to technical violations', *Journal of Contemporary Criminal Justice*, vol. 25, no. 4, pp. 424–441

Lai, K. (2013), 'Does supervision after release from prison reduce re-offending?', *Ministry of Justice Analytical Summary*, London, July

Lamet, W., Dirkzwager, A., Denkers, A. and Van der Laan, P. (2013), 'Social bonds under supervision: Associating social bonds of probationers with supervision failure', *Criminal Justice and Behavior*, vol. 40, no. 7, pp. 784–801

Lamont, C. and Glenn, C. (2015), 'Parole and probation in Northern Ireland: Experiences and reflections from practice', *Irish Probation Journal*, vol. 12, pp. 47–56

Laub, J. and Sampson, R. (2003), *Shared Beginnings, Divergent Lives: Delinquent Boys to Age 70*, Cambridge, MA: Harvard University Press

Maruna, S. (2001), *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*, Washington, DC: American Psychological Association

McAlinden, A.-M. (2016), 'The re-integration of sexual offenders', *Irish Probation Journal*, vol. 13, pp. 5–21

Ministry of Justice (2017), *Offender Management Statistics Bulletin, England and Wales* Quarterly October to December 2016, Annual 2016, London: MoJ, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/610969/offender-management-statistics-bulletin-oct-dec-2016.pdf (accessed 12 August 2017)

O'Neill, J. (2016), *Time After Time: A Study of Women's Transitions from Custody*, London: The Griffins Society, available at http://www.thegriffinssociety.org/time-after-time-study-womens-transitions-custody (accessed 12 August 2017)

Ostermann, M. (2011), 'How do former inmates perform in the community? A survival analysis of rearrests, reconvictions and technical parole violations', *Crime and Delinquency*, vol. 20, no. 10, pp. 1–25

Ostermann, M. (2013), 'Active supervision and its impact on parolee recidivism rates', *Crime and Delinquency*, vol. 55, no. 1, pp. 487–509

Padfield, N. (2007), '"Managing" offenders effectively', *Archbold News*, vol. 9, pp. 6–9

Padfield, N. and Maruna, S. (2006), 'The revolving door at the prison gate: Exploring the dramatic increase in recalls to prison', *Criminology and Criminal Justice*, vol. 6, no. 3, pp. 329–352

Petersilia, J. (2003), *When Prisoners Come Home: Parole and Prisoner Reentry*, Oxford: Oxford University Press

Sampson R. and Laub, J. (1993), *Crime in the Making: Pathways and Turning Points Through Life*, Cambridge, MA: Harvard University Press

Seymour, M. (2013), *Youth Justice in Context: Community, Compliance and Young People*, Abingdon, UK: Routledge

Steen, S. and Opsal, T. (2007), 'Punishment on the instalment plan': Individual-level predictors of parole revocation in four states', *Prison Journal*, vol. 87, no. 3, pp. 344–366

Steen, S., Opsal, T., Lovegrove, P. and McKinzey, S. (2013), 'Putting parolees back in prison: Discretion and the parole revocation process', *Criminal Justice Review*, vol. 38, no. 1, pp. 70–93

The Criminal Justice (Northern Ireland) Order 2008, No. 1216, Belfast: The Stationery Office

Ugwudike, P. (2010), 'Compliance with community penalties: The importance of interactional dynamics', in F. McNeill *et al.* (eds.), *Offender Supervision: New Directions in Theory, Research and Practice*, Abingdon, UK: Willan

US Department of Justice (2015), *Correctional Populations in the United States, 2015*, available at https://www.bjs.gov/content/pub/pdf/cpus15.pdf (accessed 12 August 2017)

Visher, C. and Travis, J. (2011), 'Life on the outside: Returning home after incarceration', *Prison Journal*, Supplement to Vol. 91, No. 3, pp. 102S–119S

Weaver, B. (2012), 'The relational context of desistance: Some implications and opportunities for social policy', *Social Policy and Administration*, vol. 46, no. 4, pp. 395–412

Weaver, B. and Barry, M. (2014), 'Managing high risk offenders in the community: Compliance, cooperation and consent in a climate of concern', *European Journal of Probation*, vol. 6, no. 3, pp. 278–295

Weaver, B., Tata, C., Munro, M. and Barry, M. (2012), 'The failure of recall to prison: Early release, front-door and back-door sentencing and the revolving prison door in Scotland', *European Journal of Probation*, vol. 4, no. 1, pp. 85–98

Women's Transitions from Custody in Northern Ireland – Time After Time?

Jean O'Neill*

Summary: This article reports on selected findings from *Time After Time – A Study of Women's Transitions from Custody*, a research study of women's experiences of imprisonment and their transitions from custody in Northern Ireland. The study documents their journeys over time – how they cope with adapting back into their families and the community, the difficulties they face and the extent to which their reintegration is helped, or otherwise, by agencies, whether official or voluntary. It is clear that their period of imprisonment left a long-lasting and damaging effect on their lives, affecting their partners, children and other family members. Stigma, issues in reconnecting with children and families, and challenges in finding employment are described. The article concludes with recommendations for service development and future work supporting women in their transition from custody to the community.

Keywords: Women, imprisonment, sentencing, custody, transition, resettlement, Northern Ireland, family, gender, children, mental health, employment, stigma.

Introduction

This article reports on selected findings from research conducted on women's experiences of imprisonment and their transitions from custody in Northern Ireland. Using a 'life-history' approach and based on multiple interviews with 14 women over a nine-month period, it reflects some of the challenges and problems the participants faced on their journeys into, through and out of custody. The study is unique in that it aimed to explore not only women's experiences of custody, but also their transition back to the community – their plans, hopes and concerns. Importantly, it documents their journeys over time – how they cope with adapting back

* Jean O'Neill is a PBNI area manager in Belfast, working with the INSPIRE project (email: Jean.O'Neill@pbni.gsi.gov.uk).

into their families and the community, the difficulties they face and the extent to which their reintegration is helped, or otherwise, by agencies, whether official or voluntary.

The research study was conducted with the support of a Griffins Society Fellowship.[1] The study report, *Time After Time – A Study of Women's Transitions from Custody* (O'Neill, 2016) has full details of the study, findings and recommendations arising.

The findings outlined in this article highlight the impacts of custody on women and the challenges of transitioning back to the community. In particular, the impact of stigma and issues in reconnecting with children and families and finding employment are described. The article concludes with some recommendations for service development and future work in this area.

Women and custody

Research on women's pathways into crime indicates that gender matters significantly in shaping involvement in the criminal justice system. Themes from this literature include the nature of women's offending, experiences of women in custody and strategies for desistance (Corston, 2007; Convery, 2009; Scraton and Moore, 2004). More recently, attention has centred on women exiting prison (Carlton and Seagrave, 2013) and the secondary impacts of custody on families and community (Mauer and Chesney-Lind, 2002). A number of similar studies focusing on themes such as the reintegration of offenders into society have emphasised the importance of accommodation, substance treatment and trauma counselling in encouraging desistance (Weaver and McNeill, 2010).

While men and women may encounter similar challenges upon release from custody, women's experiences are often qualitatively different from those of men (Loucks, 2004). Reports from the UK suggest that approximately one-third of women in custody lose their homes while in prison and many do not have any accommodation arranged prior to their release (Prison Reform Trust, 2011). Women are more likely to be single parents and the main carers for children; it is estimated that over 17,240 children were separated from their mothers in 2010 as result of imprisonment (Prison Reform Trust, 2011).

---

[1] The Griffins Society is a charity that focuses on women and girls in the criminal justice system. It annually sponsors research fellowships to enable practitioners to conduct research on issues affecting women within the criminal justice system. Further information is available at http://www.thegriffinssociety.org

On leaving custody, women face lives that are often more difficult and stressful than they experienced prior to imprisonment, especially regarding the sourcing of suitable accommodation, employment, dealing with substance misuse issues, experiences of intimate partner violence, ill-health and trauma. Moreover, the support they receive post-custody is often inadequate (Carlton and Seagrave, 2013; Kerr, 2014).

Northern Ireland

The Criminal Justice (NI) Order (2008)[2] introduced new post-release supervision for prison sentences in Northern Ireland. This included the Determinate Custodial Sentences (DCSs), Extended Custodial Sentences and Indeterminate Custodial Sentences, all of which involve periods of imprisonment followed by supervised licence. During the licence period after release, a person is liable to be recalled to custody if they breach their licence conditions.

Between April 2013 and March 2014, 809 licences were issued in relation to 761 people; 21 of the licences were for women. During 2013, only three women were recalled to custody. While this may appear a low figure, it represents 14% of the total. No matter what the figure is, there is an onus to be mindful that behind each statistic is a woman who faces the consequences of returning to prison.

It is important to note that women's interactions with the criminal justice system in Northern Ireland take place within the context of a society emerging from a period of civil and political conflict. The *Cost of the Troubles Study* estimated that 3585 people were killed, of whom 200 were women, and an estimated 40,000 persons were injured over the period 1969–1999 (Fay *et al.*, 1999).

Many people were affected socially, psychologically and economically. The psychological impact was compounded by physical and social problems such as unemployment, the loss of a home and/or displacement (Smyth *et al.*, 2001). In addition, other forms of trauma were derived from grief, imprisonment or intimidation (Smyth and Hamilton, 2002).

Women who offend in Northern Ireland are evidently affected by the challenges faced by a society emerging from conflict, where peace-building continues despite setbacks and community violence (Kerr and Moore, 2013). The whole subject of women's offending in Northern Ireland needs to take account of the particular difficulties and traumas

[2] http://www.legislation.gov.uk/nisi/2008/1216/contents/made

faced by women who grew up 'under the spectre of war and trauma of bereavement, displacement and violence' (McAlister *et al.*, 2009: 4).

It is estimated that nearly half of the Northern Ireland population, and in some areas up to 80%, know someone who was injured or killed during the conflict (Ruane and Todd, 1999). Throughout the conflict, the Northern Ireland Prison Service (NIPS) had to deal with unique demands due to intensive security arrangements arising from the management of politically motivated prisoners, alongside men and women who committed so-called 'ordinary' crimes (Corcoran, 2006). A Prison Review Team report (Prison Review Team, 2011) commented that this security focus continues within Northern Irish prisons to the present day.

Women in prison in Northern Ireland

Women's experiences in custody have been documented, in particular those who were held as political prisoners (Brady, 2011). However, less is known of the experiences of women who were imprisoned for committing 'ordinary crime' but were detained alongside political prisoners.

Women prisoners were housed in Armagh Jail until its closure in 1986. Women were moved to Mourne House in 1988, a purpose-built, high-security unit in the grounds of Maghaberry Prison, a large high-security male prison. The Belfast Agreement of 1998,[3] also known as the Good Friday Agreement, and the Northern Ireland (Sentences) Act 1998[4] led to the release of politically motivated prisoners, leaving the remanded and sentenced women offenders, including those seeking asylum and fine defaulters, in custody.

With an average daily population of 30 women, and the majority of those serving sentences of less than three months, criticism was levelled at the regime, staffing levels and overall atmosphere at Mourne House, which continued to operate as a maximum-security facility (Moore and Scraton, 2009). Following a number of incidents, including the suicides of two women, women prisoners were transferred to their current site, Ash House, in Hydebank Wood Prison. This is a stand-alone residential unit on a site shared with a young offenders' centre, known as Hydebank Secure College.

Women prisoners have remained in Ash House since 2004. However, despite the change of venue, criticisms continue to be directed at NIPS

[3] https://www.gov.uk/government/publications/the-belfast-agreement
[4] http://www.legislation.gov.uk/ukpga/1998/35/contents/enacted

for retaining many of the policies and practices of the past (PRT, 2011). NIPS has been subject to considerable scrutiny in the past decade. Since 2005 there have been over 20 external reviews and inspection reports, most of which have identified deficits in policy and practice.

Owers Review

In April 2010, policing and criminal justice powers were devolved from Westminster to the Northern Ireland Assembly. Given the historical concerns in relation to the prison service, Justice Minister David Ford announced a review of the conditions of detention, management and oversight of all prisons. Led by Dame Anne Owers, former HM Chief Inspector of Prisons in England and Wales, the review team was tasked to review the 'conditions of detention, management and oversight of all prisons … [and to consider] a women's prison which is fit for purpose and meets international obligations and best practice'.

The Prison Review published its final report in October 2011. It noted that the arrangements for accommodating women prisoners were unsuitable, and recommended:

> A new small custodial facility for women should be built, staffed and run around a therapeutic model. It should be supported by an acute mental health facility and draw on a network of staff, services and support in the community. (PRT, 2011: 36)

NIPS has accepted the need for a new purpose-built female prisoner facility. However, in the current financial climate there is no formal indication of when this might be achieved. Structural changes to the current site have been made to provide additional resources, and a step-down facility was opened in October 2015.

Women in Northern Ireland commit fewer crimes than men, and the offences are of a less serious nature (O'Neill, 2011). On any given day, the number of women in custody constitutes a small proportion of the prison population. On 31 March 2017, there were 47 women in prison in Northern Ireland, comprising just over 3% of the overall population (NIPS, 2017). Although comparatively low, the average female daily population increased by 200% in the period 2003–2014, while the male prison population also increased, at a slower rate (Department of Justice Northern Ireland (DOJNI), 2015).

The female prison population tends to be older – almost a third aged 40–49 – and women tend to serve shorter custodial sentences. Theft is the most common offence (20%) for which women are sentenced to custody (DOJNI, 2015). The number of women subject to Probation supervision in the community is small, but higher than their proportion in prison. On 31 March 2017, 400 women under Probation supervision constituted just over 9% of Probation Board for Northern Ireland's (PBNI) caseload (PBNI, 2017).

Methodology

The research study aimed to explore the transition of women from prison into the community through women's own accounts of their experiences in custody, their plans, hopes and any concerns for release, as well as hearing over time their journey in returning to the community.

As the study was based on one-to-one, in-depth interviews over time with a small sample of women, this was a qualitative, longitudinal research approach. This methodology allowed the researcher to explore topics in depth using a semi-structured approach, which enabled deeper exploration of important aspects that surfaced spontaneously in the course of interviews. It was planned to interview each woman on four occasions.

The sample was derived from the population serving sentences or on remand in Ash House during the study period. In July 2014, there was an average daily population of 61 women, of whom 44 were sentenced prisoners and the remaining 17 were on remand.

Given the aims and scope of the project, it was planned to include 15 women in the study and to follow their journeys over a period of nine months. Recruitment was based on purposive sampling. The researcher met with women identified as due to be released within the period and provided them with information on the study. Initial meetings involved explaining the project, outlining the parameters (including confidentiality and informed consent), and answering any questions about the research.

It was made clear to all women that there would be no negative consequences if they chose not to participate in the research, and that participation in the project would not impact on the services they received. Women were free to withdraw from the study at any point without having to explain their reasons. Permission to conduct the study was obtained from NIPS and PBNI. The project was subject to full ethical review by the Office for Research Ethics Committees Northern Ireland (ORECNI).

All participants were provided with a participant information sheet, and those who agreed to participate signed a consent form. Baseline interviews were conducted with the women while they were in custody, and their agreement was sought to contact them on their release. The plan was to meet with the women on three further occasions, at three, six and nine months post-release. Eighteen women met the study criteria, and 14 women were ultimately recruited to the study.

The first interviews took place in July 2014 and the final interviews were conducted in August 2015. Of the 14 women who were interviewed in custody, 12 were subsequently interviewed three months post-custody; of this group nine women were interviewed again at the six-month and nine-month post-custody stages. The reasons for attrition included non-contact by participants, and women moving to other areas.

The final sample, therefore, comprised 44 interviews. All of the interviews were audio-recorded and transcribed. The data were thematically coded. This began with open coding, which involved searching the data for emerging concepts and repeating ideas (Strauss, 1987), drawing on existing theory as a starting point for formulating themes (Bryman, 2008).

Through the process of coding, other themes emerged which were noted both within the transcripts of individual women and across the transcripts. What follows is an overview of the profile of the participants in the study and an outline of some of the key findings. Pseudonyms have been used and care has been taken not to include any personal identifying information in order to protect participants' anonymity.

Profile of participants

All the women were white, and only one woman was not born in Northern Ireland or elsewhere in the United Kingdom. Their ages ranged from 20 to 61 years; eight were over 40 years of age, reflecting the average age of women held in custody. The majority were mothers (12) and eight were in current relationships or had been in relationships prior to their committal.

The entire sample reported that their mental health had been adversely affected by their period in custody; six women advised that they had previously self-harmed. Accommodation problems were an important issue for many of the women: eight were unsure what accommodation would be available to them on their release or were returning to unstable or temporary accommodation provided by family and/or friends.

Half of the women had a job prior to their committal to custody; however, six had lost these jobs as result of their incarceration. Only two were confident that they would be able to secure employment, although six spoke of their hopes of employment following release. Only three women secured employment over the nine-month period; these three had been working prior to their committal to custody.

Previous experience of trauma was relevant for all the women interviewed. Nine described experiences of domestic violence, both historical and recent. Other trauma, including bereavement, loss and displacement, was revealed. All participants had been prescribed medication in relation to their mental health, both before and during their imprisonment. Substance misuse included misuse of prescribed medication. Alcohol ($n = 9$) and drugs ($n = 4$) were reported as having influenced their offending.

For six of the women this was their first offence. For the remaining eight, their previous convictions ranged from one offence to 33. For the majority, this was their first experience of custody.

The offences for which they were sentenced or remanded into custody included violence against the person ($n = 3$), theft ($n = 6$), perverting the course of justice ($n = 2$), public order offence ($n = 1$), driving without insurance ($n = 1$) and allowing self to be carried ($n = 1$). This range of offending reflects the overall offending profile of women in custody (NIPS, 2015).

The length of periods in custody varied from three months for a theft offence to 14 months for violence against a person. The majority of women ($n = 12$) were sentenced to a period of 12 months' custody or less:[5] on average, women were serving longer sentences than the sample in Northern Ireland. Six of the women were subject to post-release supervision. Only one of the women in the sample had been assessed by the PBNI as being of high risk of harm to others. This is consistent with PBNI statistics (O'Neill, 2011).

In Northern Ireland, 35% of the population reside in rural areas. The limited availability of private and public services in rural areas can cause difficulties for women returning to their communities, particularly where they are dependent on public transport to access services. Shops, schools, banks, post offices, police stations and Probation offices have closed due to the decline of the population in their catchment areas, market forces

---

[5] This period includes the period of custody as directed by the court and not the period of post-custody licence.

and rationalisation programmes. This has resulted in a lack of facilities particularly for women in rural areas (Walsh, 2010), and in isolation. Seven women in the sample lived outside the Greater Belfast area in small towns ($n = 2$) or in rural communities ($n = 5$).

Experiences of custody

While all women found it traumatic to go to prison, it was particularly harrowing for those who were first-time offenders and who were not expecting to receive a custodial sentence. Women in this position described being unprepared and fearful of their situation, not knowing what to expect or how to manage. In contrast, those who were expecting a custodial sentence spoke of the plans they had made – much of which centred on the care of their families:

> *Just simple things like getting them (the children) to go to do the groceries on a weekly basis … working out bills, for example, rates, TV, electric, credit unions, leaving out cards and making them go in on a Friday afternoon to pay the bills and … and teaching them how to make dinners.* (Cora, age 49, pre-release)

Prison is particularly difficult for women who are the primary carers for their children. Many spoke of the pain of separation. It is estimated that between 17,000 and 18,000 children per year in England and Wales are affected by the incarceration of their mother (Corston, 2007; Fawcett Society, 2009).

The consequences of imprisoning a woman with children, particularly where she is the sole carer, can be devastating (Dodge and Pogrebin, 2001). Women described the experience of separation as the most difficult aspect of imprisonment, particularly with the potential loss of custody of a child while in prison (Loucks, 2004):

> *The experience in here has affected me, definitely, I'm very emotional, and I just cry pretty much all the time. I just have to pick a certain subject and I'm gone, you know, but I find it hard to talk about my children in here and I find it hard to talk about the impact it's had on my children.* (Jane, age 29, pre-release)

While many women noted the pains of custody, some viewed prison as a

place of safety, given that prior to custody they had survived childhood abuse, profound domestic violence, substance addiction and suicide attempts. The extent to which women perceived prison as a 'place of safety' was a reflection of the pains of their life on the outside:

> *I went through a lot of domestic violence with [partner name] for years … I have been trying to get away from him for years, and I couldn't and then coming up these last three years, I sort of went off the rails myself, I started drinking and shoplifting … The first sentence was the best thing that ever happened to me. I maybe wouldn't have been alive if I hadn't come in here.*
> (Anna, age 45, pre-release)

It is of concern that women such as Anna find refuge and support in custody rather than through services in the community. It is obvious that community services are failing to engage with women in need or those women are unable to access the services in times of need. Research consistently notes the high numbers of women with mental health issues and experience of trauma in custodial settings (Corston, 2007; Bloom *et al.*, 2004).

In interviews, women described adjustment to prison life by development of a variety of coping mechanisms. Some women reported that they immersed themselves in prison culture and availed of programmes, classes and activities, building up friendships along the way:

> *When I came in, I was distraught, totally distraught; I thought I was never going to do it. Then I found my feet, I thought this is not really as bad as you think … I did a parenting course through Barnardos. It was very good; there was only four of us who did it … I've worked in the kitchen and I've worked in the gardens. I work with the dogs, Dog Orderly; yeah have learnt quite a lot.*
> (Fiona, age 40, three months post-custody)

Women's experiences of prison differ. It became clear, over the period, that what they retained from their time in custody had an impact on how they settled back into the community. Women who could identify positive experiences were able to transfer such experiences to the challenges they met on their return to the community. This included an acknowledgement that they had survived prison, or indeed that the experience of incarceration had strengthened their determination not to reoffend:

You know, it gives you strength you didn't know you had. I didn't think I'd cope ever, ever. I mean when I went in I put myself on suicide watch, I said I'll never cope here and you know, never. And then it took me probably a good month to settle, but then you just settle, it's a way of life, you know; I'm in for four months, I have to get on with it, and I did. I never ever thought I would ever, ever cope in prison ever … I'm a lot stronger now. (Fiona, age 40, nine months post-custody)

Fiona's feeling of strength is based on the fact that she had survived her period of incarceration. Despite emerging difficulties on her return to the community, she could draw on perhaps the only positive element of her experience in custody – that she coped with the regime.

Women who maintained negative perceptions of their period in custody were not as positive about their ability to sustain their lives in the community. This was particularly prevalent for those serving short sentences and for women who reported a lack of meaningful engagement in activities while in custody. They were unable to identify any positive factor from their experience of prison, which would build up their confidence and resilience in managing the challenges they would face on their return to the community.

Isobel is a young woman who had no previous experience of prison and no previous criminal record:

I don't understand the point of a prison 'cos people say it's … it literally just punishment, there is no rehabilitation, there's no nothin' … there's no benefit here, you know, it is just a punishment, I would understand why people get worse 'cos there's nothing here to make them better … you just think of why am I here? … You don't get that rehabilitation of what's wrong and right, you know, there is none of that in here … It's just a case of locking them behind the door, lock them away, when they've done their time throw them back out and if they do the same thing, they're back in again. (Isobel, age 20, pre-release)

The initial weeks following release

Many of the women described a sense of loss and disorientation in the initial days and weeks following release. Even women who had served short sentences spoke of the difficulties they encountered on leaving prison. Some found it difficult to cope with the freedom and especially having

to make decisions on their own. Even familiar and simple tasks, which might have been routine before they went into custody, were considered taxing. Being among crowds of people, travelling and having to use public transport were cited as causes for concern. The most prominent concern was the fear of meeting people they knew.

Previous research (Dodge and Pogrebin, 2001) notes the impact of institutionalisation on prisoners with long sentences. An important finding of this study was that women who had spent short periods in custody reported a relatively rapid process of institutionalisation:

> *It's daunting getting out. It's very daunting, very, but in a way I'd rather stay, because I'm used to this routine and this way now, you know.* (Grainne, age 35, pre-release)

> *In the nine months you definitely do become a little bit institutionalised, you do get used to that routine and obviously when you are in you don't have to worry about bills and you don't have to worry about the heating and you don't have to worry about stupid things like TV licences and stuff but when you come out, it's like a complete reality check again because you have all this worry.* (Jane, age 29, three months post-custody)

The effect of institutionalisation was felt most profoundly when women exited custody to return to the uncertainty of life in the community. For some women, this uncertainty was compounded because they did not know where they were going to live or have any source of support:

> *I haven't really [support] as far as I know; I haven't probation and I'm not on licence or anything like that, so … once I go, I go … I was renting a place but it had to go … that's one thing, I was meant to see the girl from the Housing. I asked to see her nearly four weeks ago and I'm still waiting to see her … when I get out, I have a weekend booked in a hotel but I'll have to use that weekend to look for somewhere temporarily … At the moment, I'm living in a tent by the looks of things when I get out.* (Donna, age 42, pre-release)

Other women described trying to manage this uncertainty by retreating into their home environments in an attempt to insulate themselves from the outside world, which they perceived as hostile and confusing. For many, an effect of their institutionalisation was the loss of self-confidence

needed to manage their everyday affairs. If the impact of custody leads to one feeling disarmed and incapacitated, then it follows that there needs to be greater support offered to women prior to and on leaving custody.

Re-establishing relationships with children

For many women who are imprisoned, it is the first time they have been separated from their children for a significant length of time (Codd, 2008). This separation is described as 'mental torture' (Corston, 2007: 29). Being apart and being concerned about the welfare of their children are among the most damaging aspects of prison for women. The problem is exacerbated by a lack of contact.

Research points to the importance of maintaining positive links between prisoners and their families. NIPS recognises the importance of family ties in supporting social rehabilitation, and the Probation Board for Northern Ireland in its corporate plan (2002–2005), the Northern Ireland Prison Service Resettlement Strategy (2004) and the Children's Services Plans of all Northern Ireland Health and Social Service Boards also note the place of parenting work within the resettlement process; however, there is no statutory agency in Northern Ireland with specific responsibility for children of imprisoned parents.

The majority of women in this sample ($n = 11$) were mothers, five of whom had full-time responsibility for childcare prior to their committal to custody; five women had children who were now adults and one woman had children in care. Time and again in discussion with women, mention was made of the pain and anguish of being parted from their children; in particular, not being able to look after them and share the everyday joys of motherhood.

Feelings of guilt and shame

Feelings of shame and guilt were also features of women's lives as they returned to the community. Some women described how they were unable to cope with the day-to-day challenges of life outside prison. Simple activities such as going to the local town or shop were a cause of stress. This was most acute during the initial weeks on leaving prison; however, for some the shame and stigma did not lessen over time:

> *I didn't want to leave [prison] because I was facing the big bad world I thought. My biggest issue was meeting people, having to try and get on a bus*

myself, having to bump into people myself … it was as if I had 'prison' wrote on my forehead. (Helen, age 53, three months post-custody)

Evelyn struggled with her label as an offender and recalled her anguish during her first months of custody:

I was unable to physically or mentally function – I just stayed in my cell and cried, I just couldn't come to terms with the fact that I was in prison – me, at this stage in my life. (Evelyn, age 61, pre-release)

The sense of stigma that women experienced as a result of having been in prison was clear in many of their accounts. Women who had no previous convictions and had clear intentions of avoiding further offending were confronted by the impact of stigma and a 'spoiled identity' (Goffman, 1963). This was evident in how they viewed themselves and how they perceived that others viewed them, particularly within their local communities. This was a consistent theme in nearly all the women's accounts.

It's just ruined my life, you know, my life isn't, it'll never be what it was before. I've lost my own self-respect, you know, so nobody can give that back to me really …The biggest challenge is trying to be able to go out and about and not feel like as if you have got a sign on top on your head, and I haven't overcome that, not being able to live where I want to live and not being able to organise. That's the biggest challenge and disappointment as well. It's a challenge that I haven't been able to deal with and I'm at other people's mercy at the minute … it's just my independence taken away and I just don't, don't enjoy life. (Evelyn, age 61, nine months post-custody)

This experience is not unusual for women exiting custody. A study focused on stigma found that on release into the community, women often experience a damaging process, as a consequence of society's labelling as well as the internal mechanisms of self-shaming resulting from embarrassment about having been in prison (Dodge and Pogrebin, 2001). The enduring impacts of shame prolong punishment and lead to isolation and social exclusion, which can place women at risk of further offending (Carlen, 1988; Dodge and Pogrebin, 2001).

Employment

Obtaining stable, meaningful and well-paid employment is an important factor in assisting successful resettlement. Seven women were in employment prior to custody but only six of the women spoke of plans to seek employment on release from custody. Of the 14 women, only three had secured employment in the nine months following release.

This is consistent with recent research published by the Prison Reform Trust (2017) which showed that women were unlikely to secure employment following a period of imprisonment. Similarly, it was clear from the research that imprisonment adversely affected their employment opportunities. Nora, who returned to her job, was laid off one month after her return. The financial impact of this setback was extremely difficult for the family:

> *I was very hopeful when I came home but then everything just broke down, because my previous workplace, they said that they were keeping me and everything, but when I arrived home and I went to the first meeting, they were sorry, but we have to reduce your hours because we have got someone else … but they knew what happen with me, they knew I was not sick.* (Nora, age 36, three months post-custody)

Helen had always worked prior to her imprisonment but had not found employment six months after her release:

> *I've been trying to get a job and stuff. I've put in application forms in but I haven't heard anything back yet, so I haven't, so I'm just hoping to get that. It's just, I have to get some work because bills are just piling in.* (Helen, age 60, six months post-custody)

For Helen, the importance of working was linked to her sense of self-worth. Employment provides the financial means to support families; it provides a sense of identity and purpose, a daily structure and routine and an opportunity to increase one's social network. Helen was unable to secure employment over the nine months, and she believed that her period in prison had made it more difficult for her to get a job.

Jane also spoke, while in custody, of her plans to secure employment. She had lost her job prior to coming into prison but was hopeful of finding a job in due course. Unfortunately, a job was not available to her on her

return. Jane attended programmes with NIACRO and with her Probation Officer. However, she found it difficult to secure employment – not least due to employers' view of her having a criminal record:

> *Definitely a lot harder; I see jobs that I feel I can apply for and then obviously there is always that question, have you a conviction?, and as soon as you declare you have a conviction, no matter how qualified you are for that job that you are obviously down at the bottom of the list … I have applied for a few jobs, I haven't been successful for any of them and I do believe that is because I have disclosed that I have a conviction.* (Jane, age 29, three months post-custody)

Of the six women who spoke of their plans to work, only three secured employment. All were faced with discrimination related to their offending and imprisonment. There was evidence of employers not wishing to employ applicants with a history of offending. Women spoke of their concerns in informing their employers of their convictions and were fearful of the consequences should their employers find out.

Eight of the women did not identify employment as an immediate concern, particularly those who were suffering with mental health difficulties. The two women who were pregnant were not keen to seek employment, mainly because they perceived that the only work available would be short-term and low paid, and that, ultimately, it would reduce their benefits. Women who lived in isolated rural areas also perceived themselves to be at a disadvantage in securing work, and the younger women found that it was not financially feasible to work as they were in receipt of housing and income benefit.

Carlen (1988) recognised that many women perceive themselves as being damaged by their imprisonment and that their criminal record had declared them as unemployable for life. She argued that imprisonment can further narrow already meagre life chances (Carlen, 1988: 137).

The impact of custody beyond the gates

Women described how prison had presented challenges for them, the physical and psychological demands of being locked up, hearing and witnessing other women's distress and dealing with their own thoughts and concerns. Prisons are not safe places (Moore and Scraton, 2009). Women described long-term consequences from having been subject

to pain, deprivation and living in an abnormal setting, interacting with strangers.

Moore and Wahidin (2015) describe the enforced removal of a person's liberty and a citizen's status, and the erosion of personal identity. Haney (2003) notes that the psychological effects of imprisonment can vary from individual to individual, but 'few people are completely unscathed by the experience' (Haney, 2003: 4).

Exiting prison is sometimes classified as the 'end result' – a static experience, an end point in a 'linear process through the criminal justice system' (Carlton and Seagrave, 2013: 8). A key finding of this study is that experience of punishment does not end on release from prison. All women I interviewed during the nine months following their release from custody reported that the memory and experience of being in custody remained with them. The consequences went far beyond the prison gate.

> *Whether you're in a month, two months, a year, you know, it's not something that you can wipe out you know. You've had that experience, you know, you just have to learn by it and … It stays with you.* (Donna, age 42, nine months post-custody)

> *It's with you for life, it's with you for life. You know you can, you'll never lose that.* (Evelyn, age 61, nine months post-custody)

> *You never forget, you never. You try and block it out, but when sometimes you're on your own and you see them four walls you think, you know where I've been, what I've done, it's just an impact on your mind, your life. I hope, and I do hope, that one day, I'll wake up and I'll think 'It's gone.'* (Helen, age 60, nine months post-custody)

The experience of being in prison, no matter what the length of time or, indeed, how they coped with the consequences, did stay with the women throughout the period of study. There is little knowledge as to when such memories fade and women can move on to living their lives beyond prison.

Conclusion

The personal cost of prison was great for women. All the women spoke of the trauma of being in custody, even the few who found some benefits. The overwhelming view was that the period of custody was a wasted time

for them. Women felt marked by the label of imprisonment, and the fact of their being in custody, even for a short time, was a punishment so great that, for some, time could not erase the detrimental effects on their psyche and outlook on life.

It is clear from these accounts that the effects of custody are seen not just in the period of imprisonment but as 'a dynamic process that unfolds over time' (Parke and Clarke-Steward, 2003: 199). These women's journeys reveal the impacts of this 'time after time'.

Notwithstanding the debates as to the function and use of custody, it is important to recognise that women may face particular difficulties when they enter custody that are different to those faced by men. Women tend to commit offences that are acquisitive in nature while men tend to commit more serious, violent crimes and, as a result, a higher proportion of women are in prison for relatively short sentences. This has implications in terms of sentence planning, access to programmes and making the appropriate links with agencies in the community that can assist women in their return into the community.

It was evident from research that those sentenced to short periods of custody did not receive the level of support within custody required to prepare for their return to the community. Women were therefore in more difficult circumstances than they had been prior to their incarceration.

A high proportion of women in this study were first-time offenders and the majority had no previous experience of custody. Most were sentenced to custody for periods of less than eight months, some with a further post-custody licence reflecting the nature of their offence. Their offences were not necessarily violent and they were not assessed as posing a significant risk to others.

Short sentences do little to address the complex needs of women offenders. From the account of the journeys described by the women, they can have detrimental effects in terms of their mental health, family relationships and financial stability.

The salient question is – did they need to make this particular journey, or, to put it another way, did their offending merit a custodial sentence?

It was clear from the women's accounts that their period of imprisonment had had a long-lasting and damaging effect on their lives, affecting their partners, children and other family members. The women acknowledged that they had done wrong, and they acknowledged that they had offended. They did question what purpose their incarceration had served for society.

One of the key purposes of undertaking research as a practitioner funded by a Griffins Fellowship is to effect change in practice. The research report, *Time After Time – A Study of Women's Transitions from Custody*, includes a series of recommendations for improvement and development. Recommendations include that the Department of Justice review the sentencing of women in Northern Ireland and ensure long-term funding for community initiatives that support women leaving custody.

There is a particular need to ensure that appropriate support services provide adequate health care for women on release from custody, particularly in the area of mental health. The provision of adequate accommodation is also a pressing need. As the findings demonstrate, greater emphasis should be placed on the needs of families, particularly children, when women are sent to prison. Specific supports around family contact are recommended.

References

Bloom, B., Owen, B. and Covington, S. (2004), 'Women offenders and the gendered effects of public policy', *Review of Policy Research*, vol. 21, no. 1, pp. 31–48

Brady E. (2011), *In the Footsteps of Anne: Stories of Republican Women Ex-prisoners*, Belfast: Shanway

Bryman, A. (2008), *Social Research Methods* (3rd ed.), Oxford: Oxford University Press

Carlen, P. (1988), *Women, Crime and Poverty*, Milton Keynes, UK: Open University Press

Carlton, B. and Seagrave, M. (eds) (2013), *Women Exiting Prison: Critical Essays on Gender, Post-release Support and Survival*, Abingdon, UK: Routledge

Codd, H. (2008), *In the Shadow of Prison*, Cullompton, UK: Willan

Convery, U. (2009), *Addressing Offending by Women: A Literature Review*, NIO Research and Statistical Series, Report No. 21, Belfast: NIO

Corcoran, M. (2006), *Out of Order – The Political Imprisonment of Women in Northern Ireland 1972–1998*, Cullompton, UK: Willan

Corston, J. (2007), *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London: Home Office

Department of Justice Northern Ireland (2015), *The Northern Ireland Prison Population 2014 and 2014/15,* Belfast: Department of Justice Northern Ireland, available at https://www.gov.uk/government/statistics/the-northern-ireland-prison-population-2014-and-201415 (accessed 14 August 2017)

Dodge, M. and Pogrebin, M.R. (2001), 'Collateral costs of imprisonment for women: complications of reintegration', *Prison Journal*, vol. 81, no. 1, pp. 42–54

Fawcett Society (2009), *Engendering Justice – From Policy to Practice. Final report of the Commission on Women and the Criminal Justice System*, available at http://www.ohrn.nhs.uk/resource/policy/EngenderingCJSFawcett.pdf (accessed 6 December 2015)

Fay, M.T., Morrissey, M., Smyth, M. and Wong, T. (1999), *The Cost of the Troubles Study: Report on the Northern Ireland Survey*, Derry/Londonderry: Incore

Goffman, E. (1983), *Stigma: Notes on the Management of Spoiled Identity*, New York: Simon & Schuster

Haney, C. (2003), 'The psychological impact of incarceration: Implications for post-prison adjustment', in J. Travis and M. Waul (eds), *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities*, Washington, DC: Urban Institute

Kerr, J. (2014), *The [Re]settlement of Women Prisoners in Northern Ireland: From Rhetoric to Reality.* Howard League 'What is Justice?' Working Papers 8, available at socialwelfare.bl.uk/subject-areas/services-activity/resettlement (accessed 6 December 2015)

Kerr, J. and Moore L. (2013), 'Post-release reality for women prisoners', in B. Carlton and M. Seagrave (eds), *Women Exiting Prison: Critical Essays on Gender, Post-release Support and Survival*, Abingdon, UK: Routledge

Loucks, N. (2004), 'Women in prison', in G. McIvor (ed.), *Women Who Offend* (pp. 142–158), London: Jessica Kingsley

Mauer, M. and Chesney-Lind, M. (eds) (2002), *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, New York: New Press

McAllister, S., Scraton P. and Haydon D. (2009), *Childhood in Transition: Experiencing Marginalisation and Conflict in Northern Ireland*, Belfast: Prince's Trust, Save the Children, QUB

Moore, L. and Scraton, P. (2009), *The Imprisonment of Women and Girls in the North of Ireland: A 'Continuum of Violence'*, in P. Scraton and J. McCulloch (eds), *The Violence of Incarceration* (pp. 124 –144), London: Routledge

Moore, L. and Wahidin, A. (2015), 'Transition, women and criminal justice in Northern Ireland', in A.-M. McAlinden and C. Dwyer (eds), *Criminal Justice in Transition* (pp. 277–230), Oxford: Hart Publishing

Northern Ireland Prison Service (NIPS) (2017), *Analysis of NIPS Prison Population from 01/01/2016 to 31/03/17*, Belfast: NIPS

O'Neill, J. (2011), 'The Inspire Women's Project: Managing Women Offenders', *Irish Probation Journal*, vol. 8, pp. 93–108

O'Neill, J. (2016), *Time After Time – A Study of Women's Transitions from Custody*, London: Griffins Society

Parke, R. and Clarke-Steward, K. (2003), 'The effects of parental incarceration on children: Perspectives, promises, and policies', in J. Travis and M. Waul (eds), *The Impact of Incarceration and Re-entry on Children, Families and Communities: Prisoners Once Removed*, Washington, DC: The Urban Institute Press

Prison Reform Trust (2011), *Reforming Women's Justice*, London: PRT

Prison Reform Trust (2017), *Why Focus on Reducing Women's Imprisonment?*, available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/whywomen.pdf (accessed 21 August 2017)

Prison Review Team (PRT) (2011), *Review of the Northern Ireland Prison Service: Conditions, Management and Oversight of all Prisons, October 2011*, Belfast: PRT

Probation Board for Northern Ireland (PBNI) (2017), *Probation Board for Northern Ireland Caseload Statistics Report, Financial Year 2016/17*, Belfast: PBNI

Ruane, J. and Todd, J. (1999), *After the Good Friday Agreement: Analysing Political Change in Northern Ireland*, Dublin: UCD Press

Scraton, P. and Moore, L. (2004), *The Hurt Inside: The imprisonment of Women and Girls in Northern Ireland*, Belfast: Northern Ireland Human Rights Commission

Smyth, M. and Hamilton, J. (2002), 'The human costs of the Troubles', in O. Hargie and D. Dickson (eds), *Researching the Troubles*, London: Mainstream Publishing

Smyth, M., Morrissey, M. and Hamilton, J. (2001), *Caring Through the Troubles: Health and Social Services in North and West Belfast*, Belfast: ICR

Strauss, A.L. (1987), *Qualitative Analysis for Social Scientists*, New York: Cambridge University Press

Walsh, K. (2010), *Rural Poverty and Social Exclusion on the Island of Ireland – Context, Policies and Challenges, Scoping Paper*, prepared for the Pobal All-Island Conference on Combating Poverty and Social Exclusion, Drogheda

Weaver, B. and McNeill, F. (2010), 'Travelling hopefully: Desistance research and probation practice', in J. Brayford *et al.* (eds), *What Else Works? Creative Work with Offenders and Other Social Excluded People*, Cullompton, UK: Willan

Enhanced Combination Orders

Paul Doran★

Summary: There has been recent debate on the value of community sentences in their own right rather than as an alternative to custody. For most people, punishment in the criminal justice system is synonymous with imprisonment. However, the number of people under some form of community supervision, both in Europe and in the USA, far exceeds the numbers in prison. It remains the case in these islands that offenders who commit violence or pose a risk of harm to others should be detained in a secure setting to protect the public. However, with a growing focus on outcomes, and an acknowledgement that short prison sentences (less than 12 months) are expensive and ineffective in preventing further offending, this article will look at the development of one intensive alternative to custody in Northern Ireland – the Enhanced Combination Order (ECO) – and the use of a model as a framework for change.

Keywords: Enhanced Combination Order, sentencing, courts, community, probation, justice, evaluation, Northern Ireland.

Introduction

In Robinson and McNeill's (2016) *Community Punishment*, the editors noted the debate about what community punishment is and what it is meant to achieve. In highlighting that many community sentences emerged as alternatives to custody, they pointed out that the tension between 'punishment' and 'social work values' has led to different countries developing different responses.

In the UK and Ireland, there have been many examples of cost-effective alternatives to custody that aim to reduce further offending through the rehabilitation of offenders in the community. These orders tend to combine intensive Probation supervision with a mix of demanding

★ Paul Doran is Director of Rehabilitation in the Probation Board of Northern Ireland (email: Paul.Doran@pbni.gsi.gov.uk).

requirements and interventions. With the growth in prison numbers, policy makers have attempted to develop a more effective regime of community sentences that have the support and confidence of both the judiciary and the public.

There is strong evidence that community sentences are a more effective and cheaper alternative to prison (Spencer, 2007). They allow an opportunity to address the root causes of offending behaviour while the person lives in the community and not in the artificial environment of a prison setting.

Community sanctions and measures have developed in different ways across Europe, and the rationale for their use has evolved over time. As far back as 1990, a UK Conservative Home Secretary, David Waddington, described prison as 'an expensive way to make bad people worse' (Home Office, 1990). Research in many countries shows that the outcomes for prisoners who serve short sentences are poor; consistently more than 50% of short-term prisoners reoffend within 12 months (Department of Justice Analytical Services Group, 2016).

It has been estimated that reoffending costs the UK £13 billion every year (Home Office, 2015). However, there is also evidence (Aebi *et al.*, 2015) that the increased use of community sanctions has contributed to an increase in prison numbers across Europe as result of 'net-widening', i.e. bringing people into the prison system who may not have been there in the first place.

Community sentences or alternatives to custody?

Research has been consistent in setting out the three factors that are most likely to support desistance (McNeill *et al.*, 2012). These are: (1) a job, (2) a stable relationship and (3) a home. When a person is sentenced to prison, there is disruption to these elements. However, it is a fact that politicians and a sceptical media remain to be convinced that alternatives to custody are effective and the right thing to do in terms of public policy. While there is clear evidence that community sentences are a more effective and cheaper alternative to prison (Home Office 1990), a strong view remains that imprisonment is the only way to ensure an offender does not reoffend.

The purpose of this article is to challenge that deeply held view, to highlight what can be done to provide an intensive community sentence that enjoys the support and confidence of the judiciary and politicians, and to make some recommendations for future practice.

Thirty years of change, but what has really changed?

In 1986, the author joined the Inner London Probation Service as a newly qualified Probation Officer, working in Battersea. In that year there had been prison riots in England attributed to poor conditions and overcrowding, although the prison population at the time (48,000) was just over half of what it is today (85,000). The *Daily Mail* published an article calling for fewer people to be sent to prison and for better prison conditions (*Daily Mail*, 1986).

In the same year, the UK Home Office published a handbook for courts entitled *The Sentence of the Court* (HMSO, 1986). It noted that 'research evidence suggests the probability of arrest and conviction is likely to deter potential offenders whereas the perceived severity of the ensuing penalty has little effect. No realistic increase in prison terms would make a substantial impact on crime rates, simply by virtue of locking up the particular offenders caught, convicted and sentenced' (HMSO, 1986: para. 3.2).

There was an acceptance even then that prison does not constitute an effective or constructive way of dealing with criminals or reducing crime, yet still in 2017 politicians and media commentators continue to call for harsher and longer prison sentences in response to impulsive crimes such as late-night street violence (*Belfast Telegraph*, 2017).

It does not require social work training or years of experience to work out that an angry young man, under the influence of drugs or alcohol, outside a fast-food restaurant in the early hours of the morning, does not consider current sentencing policy before assaulting someone. Many offences are impulsive acts that are best prevented by the person avoiding such scenarios in the first place.

In comparison to the vast amount of research and literature on prison sentences, relatively little research has been conducted on community sentences. Worrall and Hoy (2005) note that probation (and community sentences) is always practised in the shadow of prison. They suggest that any analysis of the role of community sentences should go beyond technical discussion of their effectiveness in comparison with prison sentences and should also address their social meaning. They refer to sentencing options intended to hold the middle ground between imprisonment and what they describe as 'regular probation'. Probation, in their view, is welfare-oriented rather than punitive.

These community sentences have a greater emphasis on directly challenging offending behaviour as opposed to the traditional Probation

role of 'advise, assist and befriend' (Worrall and Hoy, 2005: 137). The aims of such targeted rehabilitation programmes are:

- to deter offenders and others from crime
- to save taxpayers' money by providing cost-effective alternatives to prison
- to protect the community by exercising more control than traditional community supervision
- to rehabilitate offenders by using mandatory requirements and by the swift revocation of violated orders.

Rehabilitation is only one element of sentencing of people convicted of crimes. The UK Sentencing Council guidelines[1] set out the following aims of sentencing:

1. punishment
2. reduction of crime by preventing an offender from committing more crimes
3. reforming and rehabilitating offenders
4. protecting the public
5. making the offender give something back (for example, the payment of compensation, unpaid community work or restorative justice).

Community sentences: UK legislation

The first legislation in the UK that defined community sentences in detail was the 1991 Criminal Justice Act[2] in England and Wales. One of the key principles of this Act was that community sentences stand in their own right and should not be seen as alternatives to custody. For the first time, there was recognition that community sentences were not a soft option. The Act recognised that such sentences provide a degree of restriction on liberty commensurate with the level of offence seriousness.

However, a criticism of intensive alternatives to custody is that they become 'alternatives to alternatives', i.e. there is a risk that defendants receive more intensive community sentences rather than an 'ordinary' community sentence. This could lead to 'net widening', whereby people who would not have been sent to custody in the first place end up

[1] https://www.sentencingcouncil.org.uk/
[2] http://www.legislation.gov.uk/ukpga/1991/53/contents/enacted

being imprisoned for non-compliance with or breach of the additional requirements inserted into community orders in order to portray them as tough. Aebi *et al.* (2015), analysing statistics on persons serving non-custodial sanctions and measures in Europe, concluded there was evidence to show that providing a wider range of community sanctions can contribute to an increase in prison numbers.

Throughout the 1990s and 2000s in England and Wales, crime was a major issue of public concern. While successive UK governments introduced more and more changes to sentencing policy, they ignored the consistent advice from Probation Officers that there were limits to the demands that can be made on offenders, who lead chaotic lives and have serious difficulty in complying with demanding requirements in community orders. In the 1990s, Probation Officers cautioned against 'setting offenders up to fail' by the introduction of such demanding requirements. Byrne *et al.* (1992) highlighted that such initiatives created 'the appearance' of correctional reform.

In 2003, the Home Office invited Patrick Carter, a businessman, to undertake a review of the correctional services (Carter, 2003). This review and report led to the bringing together of the Prison and Probation Services into one umbrella organisation, the National Offender Management Service, NOMS. It also led to the separation of case management from 'interventions' such as programmes and introduced contestability for the provision of interventions. This paved the way for the introduction of private and voluntary sector involvement in the delivery of statutory community sentences based on the 'purchaser/provider' model that was eventually enshrined in legislation (Ministry of Justice, 2013a).

Worrall and Hoy (2005) argue that the impact of intensive community sentences on the offender was not the primary concern of government policy, but instead the objective was to respond to public opinion, particularly opinions expressed in tabloid newspapers. Research evidence, which had been consistent in demonstrating that short prison sentences were ineffective (Home Office, 1990), was ignored in favour of headline-grabbing policy initiatives.

The UK Ministry of Justice carried out evaluations of intensive alternatives to custody in 2011 and in 2014 (Ministry of Justice 2013b, 2014). The 2011 research stated that intensive alternatives to custody were likely to be more cost-effective (in terms of the costs of each sentence and expected costs of future offending) and that the evidence suggested there had been limited 'net widening' or 'up pathing' as noted earlier.

The 2014 report (Ministry of Justice, 2014) showed there was no statistically significant difference in the one-year proven reoffending rate between intensive alternatives to custody orders and short-term custodial sentences. However, there was a statistically significant decrease in the frequency of reoffending of the intensive alternative to custody group.

Developments on the island of Ireland

Carr (2016) highlights a similar change in Northern Ireland in relation to the 1991 British Criminal Justice Act, in the Criminal Justice (Northern Ireland) Order 1996,[3] which stated that community sentences such as probation should serve a rehabilitative function but also aim to protect the public from harm. She notes the risk that an offender is viewed as outwith this 'public' who are in need of protection, and this is in contrast to the strong tradition of community partnership between the Probation Service and communities in Northern Ireland during the period of conflict.

The creation of the Public Protection Arrangements for Northern Ireland (PPANI)[4] and the introduction of 'public protection' legislation through the Criminal Justice (Northern Ireland) Order 2008[5] made provision for extended and indeterminate custodial sentences for persons that the court assessed as dangerous. With the establishment of the Parole Commissioners for Northern Ireland,[6] Carr noted the shift in Probation Board for Northern Ireland's (PBNI) focus to risk management and post-custody supervision as opposed to alternatives to custody.

Carr (2016) highlighted that community sanctions and measures had been marginalised within a political discourse that had focused on other aspects of the criminal justice system, notably the prisons and the youth justice system, and that government spending on community sanctions remained comparatively low. With further spending cuts imminent, she cautioned against an increasing focus on offenders as a 'suitable enemy'.

Carr (2016) reviewed how offender supervision had developed in the two jurisdictions on the island of Ireland. She noted that while retention of social work as the core qualification for Probation Officers in Northern Ireland helped resist some of the more punitive elements of community supervision, there were missed opportunities for further

---

[3] http://www.legislation.gov.uk/nisi/1996/3160/body/made

[4] http://www.publicprotectionni.com/

[5] http://www.legislation.gov.uk/nisi/2008/1216/contents/made

[6] https://www.parolecomni.org.uk/

research in this area. However, the decision by both Probation services on the island of Ireland (along with Scotland) to retain social work as the core qualification, remain separate from custodial services and avoid contestability processes, in contrast to the direction travelled in England and Wales, has reinforced the divergence in the overall approach to alternatives to custody on these islands.

In a significant article, Vivian Geiran (2017) noted that while England and Wales was regarded as the cradle of probation, it was the jurisdiction that had undergone most change in criminal justice policy, in how probation work is organised and delivered, and in its position in Europe. The article was based on the author's June 2016 McWilliams memorial lecture, some days before the decision by the United Kingdom to leave the European Union. He noted that just as incarceration had become an alternative to something else (the death penalty), so probation came into being because of, and as an alternative to, the harsher sanction of imprisonment.

Geiran (2017) referred to the Irish Penal Policy Review Group report in 2014 (Department of Justice and Equality, 2014), which had promoted a reduction in the use of imprisonment in the Republic of Ireland and an increase in community-based sanctions, with particular focus on women, young people and those caught up in gang-related offending. Interestingly, he noted that the introduction of the successful 'community return' (McNally and Brennan, 2015) scheme in Ireland was a response to the need to reduce prison numbers in the absence of finance to build a planned super-prison rather than as a result of a policy review or scoping study.

Geiran (2017) went on to set out his view that there has been some progress towards a new belief in offender rehabilitation, and quoted Byrne *et al.* (2015) in referring to a 'possible global rehabilitation revolution'. While acknowledging that policy does not necessarily transfer between jurisdictions, he set out the importance of a focus on desistance and service user involvement in reversing the previous trend of punitive policy transfer between countries.

O'Hara and Rogan (2015) noted, in response to the overuse of imprisonment as punishment in Ireland, that political and policy rhetoric attempts had stimulated greater use of non-custodial sentences as alternatives to short-term imprisonment. They referenced studies showing the significant influences in imposing custodial sentences as the gravity of the offence, the offender's prior record and their experience of

community sentences. Like their counterparts in Northern Ireland, judges in Ireland did not consider community sentences on an equal footing with imprisonment in terms of punishment. However, the authors also detected a shift towards evidence-informed sentencing based on changing government policy, and welcomed the opportunities this presented.

The Northern Ireland context

In 2011 a review of prisons in Northern Ireland (the Owers Review) was published. The Owers Review report (Department of Justice (Northern Ireland) (DOJNI), 2011) pulled no punches in stating that there were endemic and systemic problems in the Northern Ireland Prison Service (NIPS) and that public money was being wasted. The review expressed frustration that recommendations in an interim report were not implemented, and made 40 recommendations for change (DOJNI, 2011: 5).

The review noted the large number of reports that had found that short prison sentences were costly and produced high reoffending rates. In particular, it quoted reports from the National Audit Office, the Scottish Prison Commission and Make Justice Work, which concluded that there was an opportunity to deliver real reductions in reoffending at a fraction of the cost of prison by implementing intensive community sentences.

At that time, the cost per prisoner place in Northern Ireland was £73,762. Taking account of Scottish legislation, the Owers Review report recommended that proposals should be developed to include a statutory presumption in sentencing that effective community sentences were the preferred method of dealing with offenders who would otherwise get short custodial sentences, and that there would be necessary investment in community alternatives. However, the Northern Ireland Executive did not accept the reference to 'statutory presumption' although the Justice Committee did accept the need for investment in alternatives to custody (Hansard, 2011).

PBNI has consistently received the support and confidence of judges in Northern Ireland, as measured by a number of surveys (PBNI, 2011; Criminal Justice Inspectorate, 2011; NISRA, 2008; Muldoon, 2008) and an increase in the proportion of community sentences made by judges in both Magistrates and Crown Courts (PBNI, 2017). In 2012, the Lord Chief Justice, Sir Declan Morgan, stated that 'it takes dedicated people with skills to tackle the addictions, family problems and social history that

led to the offending behaviour with a view to preventing its recurrence … Probation Officers have roles in supporting families, building dynamic and hopeful communities, where people have the strength, vision and motivation to build positive futures for themselves' (Morgan, 2012: 34).

PBNI contributed to a workshop organised by the DOJNI in January 2015, titled 'Custody/Community: Reducing Offending Through Striking the Balance'. Lord Justice Girvan set out the views of the judiciary and there were inputs from senior representatives of PBNI, NIPS, Youth Justice Agency and Police Service of Northern Ireland (PSNI).

In May 2015, Lord Chief Justice Morgan asked PBNI to consider a more demanding community sentence as an alternative to short prison sentences of less than 12 months. He noted that 88% of prison sentences imposed in Northern Ireland in the previous 12 months had been for one year or less. He also noted that research had demonstrated that short prison sentences were ineffective in addressing offending behaviour, given that there was little that could be done in practical terms to rehabilitate offenders during a short prison stay. Data showed that 51% of people released following a short prison sentence were reconvicted within 12 months.

PBNI reviewed literature and research on intensive alternatives to custody, taking account of the unique characteristics of Northern Ireland. The following factors informed our response.

- Utilising existing legislation would be preferable to the inevitable delay associated with new legislation.
- New research on problem-solving justice, based on the following principles, should feature in any alternative to custody:

  - enhanced information for judges
  - community engagement
  - collaboration between criminal justice agencies
  - individualised justice matching offender need to statutory provision
  - accountability and opportunity for judicial oversight
  - outcomes focus.

- Problem-solving justice provides a coherent and evidence-based approach to tackling offending and reoffending and assures victims that their views will be reflected in any systems and policies that are adopted.

- Victims must be central to any proposal. McGreevy (2013) noted that it was essential that sensitivity and due regard be given to the feelings and wishes of victims of crime.
- Restorative justice principles should be included. Stout (2013) noted that restorative justice was integrated in PBNI practice and targeted not just at first-time offenders, but at serious and persistent offenders. Hunter (2015) had recorded that restorative justice was associated with a 14% reduction in the frequency of reoffending and, furthermore, 85% of victims that participated in restorative justice were satisfied with the experience.
- People with mental illness are significantly over-represented in the criminal justice system (Montross, 2016; Henderson, 2015). Cotter (2015) highlighted the difficulties mentally ill offenders are faced with following release from prison as they are unable to access available community treatment because of a lack of adequate services and reluctance among providers to treat them. Cotter (2015) noted that many offenders with mental illness were trapped in a 'revolving door' and recommended that a consistent application of best practice and therapeutic intervention was required to provide effective treatment to offenders with mental illness, which would also contribute towards community safety. This issue had been particularly highlighted by judges and the Lord Chief Justice.
- In promoting greater engagement with service users, Barr and Montgomery (2016) referred to a desistance principle that the quality of professional and personal relationships was pivotal in helping offenders desist from crime.
- Research in both the North and South of Ireland consistently highlighted that approximately 75% of people who completed community service orders did not reoffend within 12 months. (Department of Justice Analytical Services Group, 2016; Central Statistics Office, 2016).
- Research (Doherty and Dennison, 2013) has demonstrated that Probation services working closely with police to target prolific offenders offered substantial benefits, in terms of reducing offending and preventing people from becoming victims of crime. Doherty and Dennison (2013) identified the key features of the Reducing Offending in Partnership programme in Northern Ireland. Early engagement with PSNI in this initiative was seen as essential.

Enhanced Combination Orders (ECOs)

Using an existing community sentence (the combination order[7]), PBNI made formal proposals to develop an ECO pilot as an alternative to short prison sentences of less than 12 months. This reflected the approach proposed by Raynor and Robinson (2009: 103) to collaborate with local courts to ensure that only those genuinely at risk of receiving custodial sentences were selected for an ECO sentence. In consultation with the Lord Chief Justice, DOJNI, the PSNI and Public Prosecution Service, it was agreed that PBNI would pilot ECOs in two court areas.

Management of change is a challenge, so PBNI used Kotter's eight-stage Change Model (Kotter, 2007) in the pilot, with each stage presenting new challenges and opportunities.

Stage 1 – Create Urgency. Taking account of the available evidence, it was clear that there was an urgent need for change (Criminal Justice Inspectorate NI, 2014). We requested support from stakeholders and colleagues to strengthen our arguments. While some stakeholders and colleagues remained sceptical, Kotter (2007) suggests that if 75% of an organisation buys into change, it is likely to be successful.

Stage 2 – Having received the support of the Lord Chief Justice, Minister of Justice, Chief Constable, Director of Public Prosecutions, and Chairman and Chief Executive of the PBNI, a *Powerful Coalition* was formed. Verbal and written presentations were provided to participants. The Minister for Justice (NI) received six-monthly updates from the Criminal Justice Board.

Stage 3 – Create a Vision for Change. Information sessions were arranged for judges, barristers and solicitors as well as the PBNI board and staff. A multi-agency reference group composed of representatives of all the key players was established and training for PBNI staff was provided. Leaflets, posters and information sheets were developed for judges, solicitors and potential subjects. These highlighted that ECOs were focused on rehabilitation, restorative practice and desistance as well as addressing victim issues. Support with parenting/family issues and an assessment by a PBNI psychologist were provided.

Stage 4 – Communicate the Vision. The project communications strategy proved to be a critical factor. It was acknowledged that emails are not enough in themselves, so written documents were provided to opinion-

[7] http://bit.ly/2v2S7Oi, http://bit.ly/2v2X35y

formers and personal contacts were used to arrange face-to-face meetings with stakeholders. While time-consuming at the outset, this allowed people to express concerns and anxieties in an open and honest fashion that, in turn, shaped the direction of the pilot.

Stage 5 – Remove Obstacles. Having taken account of learning from Stage 4, PBNI recognised the risk of damage by an accusation that the ECO model did not take account of the views of victims. PBNI embarked in genuine two-way communication with victim representatives and ensured that the elements of co-design were present in the development of the model. PBNI also engaged with judges who expressed reservations and offered face-to-face meetings to address concerns.

Stage 6 was about *Creating Short-Term Wins*. It was important to address senior Northern Ireland criminal justice figures and get their buy-in (see Stage 2). The Lord Chief Justice highlighted the opportunities provided from ECOs in several public speeches and agreed to participate in photographs to visually endorse his commitment to the project.

The ECO pilot commenced on 1 October 2015. Time was invested in the early stages to ensure that staff were supported, interagency communication was effective and feedback from offenders, victims and community organisations responded to. The Northern Ireland Human Rights Commission commended the initiative and advised the Department of Justice to consider the introduction of effective community sentences as the preferred method of dealing with those who would otherwise receive short custodial sentences.

PBNI prepared articles for the internal PBNI newsletter, convened regular meetings of the project reference group and made presentations to stakeholders. PBNI attracted interest among local newspapers. The *Irish News* (2016) published a two-page article. PBNI also worked with a social enterprise media company to produce a short DVD, which featured partner agencies as well as service users, and was included in a presentation to the Public Protection Advisory Group (Donnellan and McCaughey, 2010) in Dublin in November 2016.

Stage 7 was *Building on the Change*. At every reference group meeting PBNI reported on what was going well and what needed improvement. PBNI continued to note the views of stakeholders, particularly victims' organisations, and refined the project to enable the victims' voice to be heard at the pre-sentence stage. PBNI facilitated the involvement of psychology staff at conferences not directly related to probation, and also provided statistics and materials for speeches and presentations.

By developing the ECO model, PBNI were able to use the lessons learned in submitting applications for other problem-solving initiatives, including a Problem Solving Domestic Violence Court led by the Department of Justice in the Foyle area and a Problem Solving Substance Misuse Court in the Belfast area. Additionally, PBNI used lessons from the ECO pilot in shaping its response to the Fresh Start Agreement (Northern Ireland Office, 2015) to focus on young men at risk of becoming involved in paramilitary activity.

The *Final Stage* was to *Anchor Changes in Corporate Culture*. It was important to make continuous efforts to ensure that change is visible in every aspect of the organisation. In May 2017, PBNI made a presentation to the Northern Ireland Civil Service Live[8] event at the Waterfront Hall in Belfast. ECOs were included with other Department of Justice problem-solving initiatives in a presentation to an audience of civil servants. This demonstrated the success story, recognised the contribution of staff and highlighted the benefit of the ECO to society as a whole.

Evaluation

In June 2017, the Northern Ireland Statistics & Research Agency (NISRA) published its evaluation of the ECO pilot (NISRA, 2017). Between 1 October 2015 and 31 May 2017, 158 orders were made by courts in the two pilot areas. The evaluation focused on the period up to 10 March 2017 during which 136 offenders had ECO sentences made. The qualitative and quantitative evidence showed that the initiative had been successful in achieving five of the six ECO requirements.

In Community Service conditions, nearly 12,000 hours of unpaid community work were completed (equivalent to £87,000 worth of work provided to communities in the two areas) as part of ECOs. The work was undertaken at an accelerated pace in comparison to other Community Service Orders. Participants reported that they benefited from the structure and support from others, as well as the opportunity to put something back, and there was some evidence of victims influencing the type of work undertaken.

In the area of mental health, the research noted that all participants were offered an assessment by PBNI psychology staff. While this was resource-intensive, it was regarded as a key factor in the project's success. Unsurprisingly, participants led chaotic and unstructured lifestyles that

[8] http://www.nicslive.com/

prevented them from accessing mainstream psychiatric services. Of the 62% assessed as having current mental health difficulties (primarily depression and/or anxiety), less than a third were in contact with formal services. 96% of participants reported issues with substance misuse, 31% had a history of self-injury behaviour and 27% reported relationship difficulties, including domestic violence. Psychology staff were able to provide direct interventions and make referrals to appropriate community-based mental health providers.

Participation in parenting and family support work proved very popular with participants and staff. This work was provided by Barnardos,[9] a voluntary sector organisation, and highlighted the opportunity for participants to move away from the 'offender' label and increase their parenting skills and self-worth.

One area where it was felt more progress could have been achieved was victim engagement. It was acknowledged that this was a matter, ultimately, for the victim. Strong relationships were developed with Victim Support NI as well as with two community-based restorative justice organisations, Community Restorative Justice Ireland and Northern Ireland Alternatives. Constructive recommendations were proposed to increase and encourage victim participation in the process.

The fifth area was the completion of an accredited programme (if appropriate) to address offending behaviour. The evaluation showed that one third of participants had undertaken courses relating mainly to thinking skills, anger management, decision-making and communication.

Offending-focused work was the final requirement and the evaluation found there was evidence that Probation Officers focused on this element and explored the impact of offending behaviour with participants, particularly in relation to the impact on victims, their families and the community. These two areas were seen as critical in reducing the likelihood of further offending.

In addition to the qualitative information, NISRA obtained information on reoffending from the Department of Justice Analytical Services Group on the cohort of individuals made subject to an ECO between 1 October 2015 and 30 April 2016. The researchers noted that it was too early to include those made subject to an ECO due to the time frames on which overall reoffending rates are calculated.

The NISRA research showed that the reoffending rate of the ECO cohort in the six months prior to being sentenced to an ECO was 57.7%

---

[9] http://www.barnardos.org.uk/what_we_do/corporate_strategy/northernireland.htm

(30 of the 52 offenders who received an ECO in the time period) (NISRA, 2017).

The reoffending rate post sentencing was *significantly lower* at 17.3% (nine of the 52 offenders). Additionally, the interim breach rate was 16%, approximately half of the breach rate for other community disposals. This highlighted the additional work invested by Probation staff to assist the offender to comply. This preliminary research (NISRA, 2017) will be revisited in autumn 2017 when further information will be available and the ECO cohort will have increased.[10]

The report (NISRA 2017) highlighted that the estimated cost of an ECO was £9000. It concluded that the ECO programme had been embraced by the judiciary. There had been a reduction in custodial sentences and a decrease in the costs to the Northern Ireland taxpayer. It was too early to say if there had been an impact on the number of short custodial sentences.

The Northern Ireland Court Service, in as yet unpublished research, has advised that there was a 2% reduction in the number of short custodial sentences imposed in all NI courts during the pilot period. In the two pilot areas, the reduction was 10%. This suggests that the ECOs were not imposed as 'alternatives to alternatives' but were appropriately targeted at those likely to receive short custodial sentences. The overall prison population had reduced from 1601 on 1 October 2015 (NIPS, 2017a) to 1425 on 31 March 2017 (NIPS, 2017b).

The pilot was shown in the NISRA report (NISRA, 2017) to be effective for the participants, who valued the support it provided, particularly in relation to mental health input and parenting skills. The report was also positive about the commitment of staff based on the feedback from participants in focus group discussions. The report concluded that there was evidence that the ECO initiative was working very effectively. Recommendations were made in relation to process and future funding.

Conclusion

ECOs have been an effective response to the challenge to provide a community sentence that enjoys the confidence of the judiciary, victims and practitioners. They have provided a graduated response to offending

---

[10] Due to the small numbers and limited timeframe, this result should be viewed with caution. The study will be repeated when more information becomes available.

and make use of a range of measures tailored to the needs of persons who would have received a short prison sentence.

Participants have received help to resolve personal and social problems underlying their offending behaviour. Victims have had their voices heard and a direct input to how community sentences are managed. The community has seen a reduction in reoffending and the taxpayer has benefited from a more cost-effective community sentence.

While there is no government in place in Northern Ireland at the time of writing, the ECO pilot reflects the draft Programme for Government target of having 'a safe community where we respect the law and each other'. It will be important that following the restoration of a government this positive example of problem-solving justice is recognised, funded and extended to all areas of Northern Ireland.

References

Aebi, M., Delgrande, N. and Marguet, Y. (2015), 'Have community sanctions and measures widened the net of the European criminal justice systems?', *Punishment & Society*, vol. 17, no. 5, pp. 575–597

Barr, N. and Montgomery, G. (2016), 'Service user involvement in service planning in the criminal justice system: Rhetoric or reality?', *Irish Probation Journal*, vol. 13, pp. 143–154

Belfast Telegraph (2017), 'Tougher sentences, not just extra police, are needed to solve Belfast's crime wave', 12 May, available at http://bit.ly/2tDLQuJ (accessed 15 August 2017)

Byrne, J.M., Lurigio, A.J. and Petersilia, J. (eds) (1992), *Smart Sentencing: The Emergence of Intermediate Sanctions*, Newbury Park, CA: Sage

Byrne, J.M., Pattavina, A. and Taxman, F.S. (2015), 'International trends in prison upsizing and downsizing: In search of evidence of a global rehabilitation revolution', *Victims & Offenders*, vol. 10, no. 4, pp. 420–451

Carr, N. (2016), 'Contingent legitimacy: Community sanctions in Northern Ireland', in F. McNeill and G. Robinson (eds), *Community Punishment: European Perspectives* (pp. 114–135), Abingdon, UK: Routledge

Carter, P. (2003), *Managing Offenders, Reducing Crime: A New Approach*, London: Home Office

Central Statistics Office (2016), *Probation Recidivism: 2010 Cohort*, available at http://www.cso.ie/en/releasesandpublications/er/pror/probationrecidivism2010cohort/ (accessed 15 August 2017)

Cotter, L. (2015), 'Are the needs of adult offenders with mental health difficulties being met in prisons and on probation?', *Irish Probation Journal*, vol. 12, pp. 57–79

Criminal Justice Inspectorate NI (2011), *Pre-Sentence Reports*, Belfast: Department of Justice

Criminal Justice Inspectorate NI (2014), *The Safety of Prisoners held by the Northern Ireland Prison Service; A joint inspection by Criminal Justice Inspection Northern Ireland and the Regulation and Quality Improvement Authority*, Belfast: Department of Justice

Daily Mail (1986), 'Disgrace of the men who run our prisons', 2 May

Department of Justice Analytical Services Group (2016), *Adult and Youth Reoffending in Northern Ireland (2013/14 Cohort)*, available at https://www.justice-ni.gov.uk/sites/default/files/publications/justice/23-2016-adult-and-youth-reoffending-in-northern-ireland-201314-cohort.pdf (accessed 15 August 2017)

Department of Justice (Northern Ireland) (2011), *Owers Review of the Northern Ireland Prison Service*, available at http://bit.ly/2v2WQQ9 (accessed 15 August 2017)

Department of Justice and Equality (2014), *Strategic Review of Penal Policy: Final Report*, available at http://bit.ly/2uI5uUH (accessed 15 August 2017)

Doherty, T. and Dennison, M. (2013), 'Reducing offending in partnership', *Irish Probation Journal*, vol. 10, pp. 154–161

Donnellan, M. and McCaughey, B. (2010), 'The Public Protection Advisory Group: A model for structured co-operation', *Irish Probation Journal*, vol. 7, pp. 6–14.

Geiran, V. (2017), 'Penal reform and probation in Europe: Positive change of direction, "nudges to the rudder", or "steady as she goes"?', *Howard Journal of Crime and Justice*, vol. 56, no. 1, pp. 72–91

Hansard (2011), *Official Report*, Monday 14 November, vol. 68, no. 5

Henderson, C. (2015), *Why People with a Mental Illness are Over-represented in the Criminal Justice System*, Lilyfield, Australia: Mental Health Coordinating Council, available at https://www.researchgate.net/publication/237568921 (accessed 15 August 2017)

Home Office (1986), *The Sentence of the Court: Handbook for Courts on the Treatment of Offenders*, London: HMSO

Home Office (1990), *Crime, Justice and Protecting the Public*, Cmnd 965, London: HMSO

Home Office (2015), *2010 to 2015 Government Policy: Reoffending and Rehabilitation*, available at https://www.gov.uk/government/publications/2010-to-2015-government-policy-reoffending-and-rehabilitation/2010-to-2015-government-policy-reoffending-and-rehabilitation (accessed 15 August 2017)

Hunter, C. (2015), 'The development of restorative practice with adult offenders in the Probation Board for Northern Ireland', *Irish Probation Journal*, vol. 12, pp. 229–240

Irish News (2016), 'New approach to sentencing producing dramatic results', 18 July

Kotter, J.P. (2007), 'Leading change: Why transformation efforts fail', *Harvard Business Review*, January.

McGreevy, G. (2013), 'Probation and the role of public relations', *Irish Probation Journal*, vol. 10, pp. 90–103

McNally G. and Brennan, A. (2015), 'Community return: A unique opportunity', *Irish Probation Journal*, vol. 12, pp. 141–159

McNeill, F., Farrall, S., Lightowler, C. and Maruna, S. (2012), 'How and why people stop offending: Discovering desistance', *Insights*, April, available at https://www.iriss.org.uk/sites/default/files/iriss-insight-15.pdf (accessed 15 August 2017)

NO

Ministry of Justice (2013a), *Transforming Rehabilitation: A Strategy for Reform*, London: HMSO, available at http://bit.ly/2tDvGBc (accessed 15 August 2017)

Ministry of Justice (2013b), *Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending*, London: HMSO

Ministry of Justice (2014), *Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending* (2nd ed.), London: HMSO

Montross, C. (2016), 'Hard time or hospital treatment? Mental illness and the criminal justice system', *New England Journal of Medicine*, vol. 375, pp. 1407–1409

Morgan, D. (2012), 'Partnership working for public protection', *Irish Probation Journal*, vol. 9, pp. 33–41

Muldoon, R. (2008), 'A view from the Bench', *Irish Probation Journal*, vol. 5, pp. 14–19

NISRA (2008), *Sentencer Satisfaction Survey 2007*, Belfast: Northern Ireland Office

NISRA (2017), *Evaluation of the Enhanced Combination Order Pilot*, Belfast: NISRA

Northern Ireland Office (2015), *A Fresh Start for Northern Ireland*, available at http://bit.ly/1NZR6wB (accessed 15 August 2017)

Northern Ireland Prison Service (2017a), *Prison Population Statistics 01 October 2015 to 31 December 2016*, Belfast: Department of Justice

Northern Ireland Prison Service (2017b), *Prison Population Statistics 01 January 2016 to 31 March 2017*, Belfast: Department of Justice

O'Hara, K. and Rogan, M. (2015). 'Examining the use of Community Service Orders as alternatives to short prison sentences in Ireland', *Irish Probation Journal*, vol. 12, pp. 22–45

Prison Review Team (2011), *Review of the Northern Ireland Prison Service Conditions, Management and Oversight of All Prisons*, Belfast: Department of Justice

Probation Board for Northern Ireland (2011), *Sentencer Survey, December 2010*, available at http://www.pbni.org.uk/wp-content/uploads/2015/02/Sentencer-Survey-2010.pdf (accessed 15 August 2017)

Probation Board for Northern Ireland (2017), *Management Information Paper, May 2017* (unpublished)

Raynor, P. and Robinson, G. (2009), 'Why help offenders? Arguments for rehabilitation as a penal strategy', *European Journal of Probation*, vol. 1, no. 1, pp. 3–20

Robinson, G. and McNeill, F. (eds) (2016), *Community Punishment: European Perspectives*, Abingdon, UK: Routledge

Spencer, A. (2007), *Rethinking Imprisonment in Scotland: The Dilemma for Prison Reform and the Challenges Beyond*, submission to the Scottish Prison Commission, available at http://www.gov.scot/resource/doc/1102/0056826.pdf (accessed 15 August 2017)

Stout, B. (2013), 'Probation practice at the end of the Troubles: Reflections from a distance', *Irish Probation Journal*, vol. 10, pp. 37–49

Worrall, A. and Hoy, C. (2005), *Punishment in the Community: Managing Offenders, Making Choices*, Cullompton, UK: Willan

Overview of a Group Work Programme: The Choices and the Challenges

Nicholas Clarke★

Summary: The 'Nothing Works' and 'What Works' debates were central to discourse on recidivism in the 1970s and 1980s. When the outrage subsided and the research based on meta-analysis was reviewed, one simple message for practitioners emerged: some things work with some people some of the time. The challenge is to find the right intervention for the right person at the right time. As agents of change, no practitioner can afford to be a 'one-trick pony' but will draw from a toolkit of interventions to address the factors that contribute to offending behaviour. Programme interventions, specifically CBT-based group work programmes, are recognised as providing an appropriate and structured environment in which to address pro-criminal thinking and attitudes in order to achieve reduced offending and ultimately desistance and reintegration into communities. The Probation Service Strategy 2011–2014 identified the introduction of a range of programmes to enhance and support effective practice as a key goal. The Choice and Challenge Group Programme was the Service's first nationally approved offending behaviour programme. Developed in accordance with evidence-based principles, its central focus is to challenge negative beliefs and attitudes, promote prosocial behaviours and enhance individual capacity for problem-solving and personal growth and development. This is a narrative about its implementation.

Keywords: Choice, challenge, change, rehabilitation, CBT, programme, probation, supervision, group work, desistance, offender, Ireland.

Getting started

- *Thinking:* This is not going to work. Nobody is going to turn up.
- *Feeling:* Very nervous and fidgety as I observe the empty room.

★ Nicholas Clarke is a Probation Officer and a lead group-work facilitator based in Dublin (email: nmclarke@probation.ie).

- *Behaviour:* Sitting stressed in the group-work room at Tallaght Probation Project (TPP),[1] surrounded by 15 empty chairs and trying to control nervous hand movements.

Having facilitated Choice and Challenge – a thinking skills programme that targets offending – for a number of years, I should by now have a good understanding of how thinking affects feeling and behaviour. Anxiously I get up again and walk around the empty group-work room. I then go and check the canteen area of the Tallaght Probation Project, for the third time. I know from running groups that the first days of each programme can be fraught with anxiety and uncertainty, even when everything possible has been done to achieve a good start. Working with groups is an exciting experience, as you never quite know what is going to happen next.

The first day of each Choice and Challenge group is always a little daunting. It's not just about filling chairs (although that helps everyone's morale) but also about creating a learning and developmental environment that supports individuals in their stated commitment to desist from crime. The anxiety/tension around group work, which, of course, is part of its attraction, stems in part from the fact that each group is so different. One does not have any real sense of the individuals who are going to arrive or of just how the relationships will develop and work out during the group process.

Seeking participants

The very first challenge of any group is getting sufficient appropriate referrals. Group work is all about good planning and preparation. Good relationships have been established over a number of years, with supervising Probation Officers, Community Service teams and the Tallaght Probation Project. Those links have been critical to embedding the Choice and Challenge programme within the Probation Service.

In the search for participants, the net is cast ever wider. Appropriate referrals are accepted from all over Dublin. Indeed, without that larger pool, as well as the support of referring Probation Officers, the chairs in the group-work room might remain empty. The eligibility criteria are: males over the age of 21 years; at medium to high risk of reoffending

[1] Tallaght Probation Project, Westpark, Tallaght, Dublin 24. Tel. 01 4270600; project@tpp.ie

based on recent LSI-R scores;[2] on a period of supervision with a case management plan in place; and display a level of group readiness.

In assessing group readiness, the Probation Officer will focus on substance misuse issues, medical and mental health issues and literacy capacity. The presence of one or all of these issues should not exclude a person, lest group leaders be doing what a colleague once described as a 'Goldilocks assessment': that is, accepting only those who are 'just right' (who are best placed to succeed even without the programme rather than candidates with needs and challenges). Candidates are assessed to ensure that they are capable, with all available supports, to actively participate in the programme and will not be unnecessarily vulnerable in a group setting.

For about six weeks before the group is due to start, the Choice and Challenge programme is promoted widely using leaflets, emails and the internal Service newsletter. Group facilitators also visit each of the Probation teams in Dublin, as well as Community Service and Community Return[3] teams. Probation Officers can discuss the programme and review caseloads in the search for suitable candidates.

The right venue is vitally important for any group. The Tallaght Probation Project has proved to be a valuable resource, providing an environment that balances structure with flexibility and challenge with support. The canteen area of the Project, where participants are welcomed with a cup of tea and a smile, helps set the right atmosphere for participants who arrive, with varying levels of anxiety, to take part in the Choice and Challenge programme.

There does not seem to be a typical Choice and Challenge participant. They are of a range of ages and circumstances. What they do have in common is a commitment to change. Moreover, get them in the door with a positive welcome and enthusiastic attitude and you have a good chance of keeping them for the life of the programme.

The programme

So, what exactly is Choice and Challenge, and how was it developed? In seeking to bring about a reduction in offending, Probation Officers

[2] The Level of Service Inventory–Revised™ (LSI-R™) is a risk/needs assessment instrument developed by Andrews and Bonta (1995).
[3] Community Return is an incentivised, structured and supervised release programme for prisoners combining unpaid work for the benefit of the community with early release and resettlement support.

recognise that pro-criminal thinking is one of the central influences affecting recidivism. Based on knowledge and experience of a range of cognitive behavioural programmes and in collaboration with the Programme Development Unit at the Bridge Project,[4] the Probation Service developed Choice and Challenge, a structured group-work programme to address pro-criminal thinking.

When our main goal is to reduce the likelihood of the person committing a new offence, we must explore the individual choices made. It is in that exploration that positive change can occur: as Christopher Alexander says, 'when they have a choice, people will always gravitate to those rooms which have light on two sides, and leave the rooms which are lit only from one side unused and empty' (Alexander *et al.*, 1977).

The Programme Development Unit conducted a pilot Choice and Challenge programme in 2011. An evaluation of the pilot found that some of the materials and language did not adhere to the requirements of the responsivity principle (Andrews and Bonta, 2016) and there was a lack of connectivity between sessions. The Probation Service approved a second pilot in a number of centres nationally in 2012. Recommendations from that second pilot have been included in the current programme. The programme manual consists of a programme outline and session description accompanied by the facilitator's notes for each session. There is also a workbook for each participant.

Since 2013, at least two group-work programmes have been delivered annually to Dublin-based referrals. A total of 12 sessions are scheduled for two days a week over six weeks. Once a referral is made, a three-way meeting with the candidate and the supervising officer is arranged and the assessment form is completed by a programme facilitator. The aim and nature of the programme are discussed and the demands of participation in the group clearly set out. Other practical details, such as dates and times and possible literacy support, are agreed.

This meeting provides an opportunity to clarify with busy Probation Officers just how the programme fits into the supervision order, with current risk assessments and with related case management plans. The ongoing method of feedback to and from Probation Officers and the constraints of confidentiality are also outlined. This ensures that there is

[4] The Bridge Project is a community-based alternative to custody for adult males with a history of offending in the Greater Dublin Metropolitan Area. Based in Francis Street, Dublin 8, Bridge is a limited company with charitable status. www.bridge.ie

a shared understanding about support mechanisms and the management of compliance.

The assessment and selection process aims for a mixture of age ranges and offending history to balance the group dynamics. The programme uses therapeutic, educational and video material together with role-play inputs that guide participation through a challenging journey of understanding the past and building hope and confidence for the future.

Central to the Choice and Challenge intervention is a structured group process that brings together a group of individuals with a common aim – to stop offending – and challenges them to live better lives. The group-work setting allows a particular dynamic of social interactions and learning situations that encourages collaborative working to manage the shared risks. Within the programme's structure, old, entrenched criminal ways of thinking and behaving are challenged and the development of pro-social lifestyles is advanced.

What is modelled in the group for participants is, often, a completely new culture of social interactions. It is within the process of group socialisation and new learning opportunities that change starts to take place and enables participants to realise their potential and identify paths to desistance. In the group and in their social interactions within the project, in general, skills are developed in areas such as active listening, constructive feedback, affirmation and openness.

These skills and attitudes are modelled, encouraged and practised in a dynamic way that can be challenging for the participants and facilitators: 'We must accept life for what it actually is – a challenge to our quality without which we should never know of what stuff we are made, or grow to our full stature' (a quote attributed to Robert Louis Stevenson). It is within the combination of the group process, programme content and experience of facilitators from Probation, social work and youth-work fields that the 'magic' of a functioning group dynamic can be conjured, to effect change and growth.

Even with all the enthusiasm and encouragement, there can be great reluctance on the part of clients to sign up for a group programme. The thought of having to speak in front of other people can be daunting for most participants' self-confidence when one goes under the façade. While some participants may have attended groups while in custody, for many, group work reminds them of the classroom, which they may have left at an early stage with poor memories.

Group-work begins

Back in the group-work room, things have improved as many of the chairs are now occupied.

- *Thinking:* 10 out of 16 places offered is not bad for the first day – about average.
- *Feeling:* Much better – I am an 8 out of 10 on the feeling scale.
- *Behaviour:* Ready to start and do an introduction and opening round asking how people feel.

At the start and end of each Choice and Challenge session, all group participants are asked how they are feeling, from bad to good, expressed in a number from 1 to 10. Being active in the group, the Choice and Challenge facilitators model the behaviour expected in the group by being open, warm and enthusiastic about the programme. Ten participants in a group is a good size for Choice and Challenge. To get this number consistently demonstrates the importance of an effective referral process. Experience shows that the programme, in its current format, has the ability to engage, educate and interest the participants once they have committed to attend.

Programme content

The first session covers the introduction and the aims of the programme. The concerns and expectations of participants are reviewed and discussed as part of the formal check-in. Modelling the goal of a pro-social culture within the group underpins all engagement. To support a group culture of learning and change, the requirements of a pro-social group – openness, active listening and respect – are promoted, and the level to which participants are seeking change in their lives is established.

With the inclusion of opening rounds, ice-breaker exercises and energisers in each session, the process of group building begins and the culture of the group starts to take shape. Respect for others, active engagement in the group by listening and contributing, timekeeping, attendance and, importantly, switching off mobile phones are highlighted. The limits of confidentiality are discussed, as well as how Choice and Challenge attendance fits in with general Probation supervision. Vitally important is the requirement not to attend affected by drugs or to engage in drug use while attending the programme.

At this early stage role-play is introduced, which is usually a bit dramatic as suddenly the group observe two facilitators start a conversation which quickly turns into a row. It plays out with two people shouting, no longer listening to each other, who clearly don't have respect for each other. They continue to shout over each other, with the sole aim of point scoring. Everything we don't want in a group!

At the end of the session, there is a review of what was covered. Practical matters are clarified. A check-in round is undertaken and participants are again asked to rate their feeling levels.

In the second session further work is done on completing the group rules and agreement. Icebreakers and energisers are used to get participants involved and discussions started on key concepts, such as the connection between thinking, feeling and behaviour, and how we learn and change. Video aids are used in the group tasks and more modelling is undertaken by facilitators on how groups work together successfully. When discussing key concepts such as the ability to change and taking personal responsibility, participants are encouraged to use positive group skills around active listening, contributing, valuing opinions and building of trust.

By session three, participants are usually getting into what is required in the opening and closing rounds and the group explores further the links between how we think, feel and behave. The concepts of pro-social and antisocial behaviour are introduced, and how we think about crime in a cost–benefit analysis is explored.

At this stage, participants are increasingly challenged about behaving antisocially, criminally and selfishly. Often at this point, the group is following Tuckman's (1965) five stages of group development and the polite stage of forming is moving on to storming, with negative beliefs stated and maintained and positions set out.

At this juncture, we often lose one or two participants, but usually we have seven or eight people who continue to the end. Issues about drug misuse, particularly 'benzos' (benzodiazepines) – the scourge of any group-work programme – often come to the fore here.

The fourth session continues to work on problem-solving skills. The concept that 'you always have a choice' is explored. This challenges the belief of many participants that they had no choice but to commit crime. The fifth session looks at thinking errors and negative self-talk, and how these can be a barrier to problem-solving and cause a relapse into criminal behaviour. In each session, group behaviour and social skills are reviewed,

and participants are encouraged to get the best from a group setting and move the group on to its performing stage.

Exploring the link between justification and offending behaviour is the core focus for session six. Session seven looks at morality and the concerns of the wider society regarding crime. The group also examines how society responds to crime, and considers rights and responsibilities.

At this point, the group is coming together well and has resolved any differences as it moves on from the storming stage to the performing stage of group dynamics. This is characterised by the group working together, respecting differences and giving constructive and genuine feedback.

In session eight, 'cartooning' takes place, which is a core part of the programme. Graphic recording or 'cartooning' allows the participants to present an honest and real account of their offending on a flipchart before the group. This visual representation is an attempt at an honest portrayal and narrative of the factors that led up to the offence and the effects of that behaviour on the victim, their family and themselves.

Participants bring together what they have learnt so far in the programme. Also included in their representations are what they were thinking, what choices they have made and what problems may have overwhelmed them. Each participant has to present their 'cartoon' to the group in a realistic way that is respectful and sincere, as well as listen to feedback from the group. During this session, the purpose and power of the group are very evident, as is the individuals' progress and confidence to deal with challenge.

Session nine is a very powerful session that examines further the impact on victims of offending behaviour and crime. The session aims to facilitate an awareness of the impact of participants' offending and to support the development of empathy for the harm that has been suffered as a consequence of their actions. Victims' stories/experiences are discussed and examined and as part of that discussion, participants are encouraged to own their feelings about the impact of their offending on the victim.

Session ten moves on from direct victims to how we respond to crime, both as a society and on an individual basis. Participants are asked to view crime from a range of perspectives: the courts, An Garda Síochána, the community and the primary and secondary victims. They outline what personal changes they can make and the related actions to put an end to the cycle of harm they have caused.

Thus far in the group programme the emphasis has been on challenging offending behaviour and looking at the effects of criminality. However,

from this point in the group process the challenge becomes more about the future and building the commitment to change with new ways of thinking, feeling and behaviour. The group works towards affirming a positive attitude to life, and examines what a 'good life' is and what it means to have an expansive, positive attitude with aspirations, goals and acceptance of responsibilities.

In session eleven, the group is moving towards the end of the programme and participants are encouraged to look at their life choices for the future and the challenges of leading a pro-social, crime-free lifestyle. Maslow's Hierarchy of Needs (Maslow, 1943) is used to stimulate reflection on priorities for living. Pro-social goals are set and the challenges in areas such as addiction, employment, relationships and self-fulfilment explored. At this stage, I have on occasion, and with good effect, drawn from some Shakespearian sonnets to illustrate the significance of self-actualised personal achievement.

Due to the structure and time constraints of the programme, particular issues that arise cannot always be explored in great detail. An opportunity is provided to revisit any outstanding issues before the conclusion of the programme. Typical concerns raised include alcohol and drug abuse, sleep deprivation, family law problems, diet and homelessness. There are no easy solutions, but a group discussion and a mindfulness session can help some participants move from being overwhelmed. The validation and encouragement from their peers is now a critical influence.

Finally, session twelve brings the programme to a close and, for those who have persevered through the whole process, there is a sense of achievement, but also a sadness that the programme is about to end. All participants complete an 'action plan' targeting how they will avoid future offending. Brief presentations are made on training and employment opportunities that will support some of the planned actions.

The level of retention and understanding by the participants of the material covered in the programme is evaluated. There is a discussion on the process of the group, during which valuable feedback is provided on what did and didn't work for them.

Finally, certificates are presented: a formalised ritual with plenty of time for affirmative commentary. In an acknowledgement of Tuckman's mourning phase of group dynamics, the group members are provided with an opportunity to reconvene in a month to reflect on the group and review progress on their goals. In a group that has come together successfully, an average of eight participants complete the process.

Reflections

> … guilty creatures sitting at a play
> Have by the very cunning of the scene
> Been struck so to the soul that presently
> They have proclaim'd their malefactions.[5]

If you really want to know your clients (and indeed yourself), get involved in a group-work programme. The Choice and Challenge provides a real opportunity to engage actively with your clients, and to achieve a broader understanding of their background, level of social skills and willingness to change. In my work, I have observed the many ways in which participants can meet challenges and effect changes. The following are some examples (all names changed).

Dave was a homeless man living in hostel accommodation who completed the programme. During the assessment process, concerns were raised about his ability to complete a group-work programme. A long history of drug abuse and chaotic living suggested that he would not be able to cope with its structure and demands. However, with support around reading and writing, he successfully completed the programme. Allowances were made for his morning appointment for methadone and the fact that this could limit his engagement at times.

He was able to make a real contribution to the group, and often had thoughtful statements to make when given the space and encouragement to give his opinion. His long history of drug abuse and public order offending signposted a wasted life, in his view, which he hoped younger participants could avoid. The recognition he gained in being asked his opinion and being heard, getting a proper cooked meal each day, and being helped with bus fares enabled him to successfully finish something for the first time in his life. This provided him with a real sense of achievement. In his case, the risk taken proved successful.

Paul, a young man just turned 20, initially played the fool in the group but was able to grow and mature as the programme progressed. He was seriously involved in drug dealing but was able to listen to older, wiser group members who talked about what real friends are, not just drug-taking associates. Paul recognised that he needed to make big changes in his life, particularly changing his so-called friends, if he was to avoid a significant prison sentence.

5 William Shakespeare, *Hamlet*, Act 2, scene 2.

Paul had a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) and found it extremely difficult to sit still in a chair. The group accommodated his need to get out of his chair from time to time. This enabled him to compete the programme and overcome challenges that could have been barriers to his participation. Paul successfully moved on to other programmes at the Tallaght Probation Project.

Colin, at the referral stage, stated his motivation for change and claimed a drug-free status. Soon after starting the group it became clear that he was 'affected' when in the group, and he admitted to abusing 'benzos'. He was asked to leave the group, as he could not participate and there was no evidence of any commitment to change. Colin was offered a place on the programme the following year, to give him time to address his drug use. He did commence the following year, but was still entrenched in a pattern of drug misuse. He was asked to leave again, as his attendance seriously compromised the group. We may yet consider a further application from Colin.

Tony, an older man who had everything – good job, varied lifestyle, fun and money – talked about how unfulfilled he felt about his life and how he had lost close friends and an ex-girlfriend to drugs. He was able to explain to younger members of the group the full cost of drug abuse and its inevitable consequence. Although he had expected a long prison sentence, he had been granted a second chance and was in a new relationship and family.

Tony expressed his gratitude to the Choice and Challenge programme for giving him the opportunity to reflect on life, and stated his determination to have a life and family he can value and care for. Again, he was continuing to build on these changes through ongoing participation in the Tallaght Probation Project.

Patrick, a drug dealer with a number of convictions, had so far avoided a prison sentence. He appeared as the 'wise owl' of his group and was somewhat reserved. He seemed to 'know it all' and was only really engaging on a superficial level. The group revealed how Patrick knew enough to say the right things, but would manipulate younger, less experienced members into antisocial behaviour. He did not complete the group, and was arrested again soon after leaving. Choice and Challenge is very clear that its aim is to stop reoffending and support desistance, not to produce self-actualised and happy offenders who have no intention to stop offending.

Con was a young man from a Traveller background who had a history of drinking and theft. He had just started a family, and was determined to make changes in his life. As a Traveller, he was unsure about the reception he would get from the group, and showed some reluctance to talk in front of others. Once he settled in, and acknowledged the warm reception from facilitators and the other group members, he felt he could trust the group and he enjoyed attending. He said he learned a lot about how his fixed attitudes and drinking had led to his offending. He successfully completed the group and went on to complete other programmes for alcohol and addictions.

Conclusion

Although a group work programme like Choice and Challenge has many benefits, and provides an opportunity for a second chance and for change for participants, programmes require a lot of preparation and planning. It can be a real challenge to deliver a programme effectively when balancing workload priorities. Group work has always been an essential part of Probation practice across jurisdictions. The 1907 Probation of Offenders Act[6] is the legislation underpinning Probation practice in Ireland: it serves to guide the Probation Service every day in its work of giving offenders a 'second chance' and challenging them not to reoffend, while maintaining the spirit of the Act, to 'advise, assist and befriend'.

In undertaking group work we can broaden the approach to tackling offending: not just on the one-dimensional individual view, with its focus on the individual failings of the offender, but with a multidimensional approach to repair, where possible, the broken relationship between offender, victims and the wider community.

Choice and Challenge ensures that individuals are held accountable for their offending. As it moves through the sessions, the programme views the rehabilitation and change process through a desistance-focused lens where the concepts of redemption, reintegration and personal agency are more visible in the engagement. We know how difficult change can be. There is some evidence that people are more likely to be successful in making and maintaining changes in their lives when they are open to the benefit of skilled and structured group work that allows for what is now termed 'democratic professionalism' (Whitty and Wisby, 2006).

[6] http://www.irishstatutebook.ie/eli/1907/act/17/enacted/en/print.html

The Choice and Challenge Programme, effectively integrated with one-to-one supervision, is a valuable resource within a range of interventions that can work, with the right people at the right time.

Nearing the end of the Choice and Challenge programme, having observed the group go through the forming, storming and norming stages and on to the performing stage, I start to enjoy watching it working well.

- *Thinking:* this has been a good but tough road with lots of twists and turns.
- *Feeling:* great, as I enjoy watching a successfully functioning group.
- *Behaviour:* gently intervening with an occasional Shakespearian reference

References

Alexander, C., Ishikawa, S. and Silverstein, M. (1977), *A Pattern Language: Towns, Buildings, Construction*, Oxford: Oxford University Press

Andrews, D.A. and Bonta, J. (1995), *The Level of Supervision Inventory – Revised*, Toronto: Multi-Health Systems

Andrews, D.A. and Bonta, J. (2016), *The Psychology of Criminal Conduct* (6th ed.), London: Taylor & Francis

Maslow, A.H. (1943), 'A theory of human motivation', *Psychological Review*, vol. 50, no. 4, pp. 370–396

Tuckman, B.W. (1965), 'Developmental sequence in small groups', *Psychological Bulletin*, vol. 63, no. 6, pp. 384–399

Whitty, G. and Wisby, E. (2006), 'Moving beyond recent education reform — and towards a democratic professionalism', *Hitotsubashi Journal of Social Studies*, vol. 38, no. 1, pp. 43–46

The Journey of Probation Domestic Abuse Interventions

Nichola Crawford★

Summary: Domestic abuse can have a devastating effect on individuals and families. In Northern Ireland the police respond to an incident of domestic abuse every 19 minutes. The Probation Board for Northern Ireland (PBNI) has developed a number of programmes to tackle male perpetrators of domestic abuse. This article describes the programmes that have been developed, and discusses the evaluation of the Integrated Domestic Abuse Programme (IDAP). This evaluation has helped PBNI develop its approach to tackling domestic abuse.

Keywords: Domestic abuse, programmes for male perpetrators of domestic abuse, evaluation, Integrated Domestic Abuse Programme, Northern Ireland, courts.

Introduction

It is widely accepted that domestic abuse is perpetrated in many forms and within many types of relationship (World Health Organization, 2012). In Northern Ireland in the 1970s, following the implementation of equality legislation, it was the feminist movement that initially influenced the definition, legislation and identification of what has been previously referred to in society as 'domestic violence', and consequences for individuals who perpetrated it. Following public acknowledgement of this significant social and personal problem, it became apparent that the behaviour perpetrated by abusive individuals did not take the form of physical violence alone but included psychological, financial and sexually abusive behaviours. For these reasons, the term 'domestic abuse'

★ Nichola Crawford is a trainee forensic psychologist with the Probation Board for Northern Ireland (email: Nichola.Crawford@pbni.gsi.gov.uk).

has become widely used as it encompasses all behaviours and not solely violence. It has been defined as

> Threatening, controlling, coercive behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender or sexual orientation) by a current or former intimate partner or family member. (Department of Health and Social Services Northern Ireland (DHSSNI) and Department of Justice, 2013)

With the increase in the identification, conviction and subsequent sentencing of domestic abuse perpetrators in courts in Northern Ireland came the emergence of perpetrator programmes in the late 1980s and early 1990s. A high number of referrals from the courts for male perpetrators of domestic abuse to address their offending behaviour through PBNI community supervision generated a need to offer the opportunity for change and rehabilitation in group-work programmes. Research tells us that group-work programmes for male perpetrators are more likely to be effective than individual work (Harper and Chitty, 2005).

Probation programmes

PBNI delivers a range of group-work programmes and individual interventions with the purpose of facilitating change with individuals under supervision who are court mandated to engage. Probation programmes are designed to address aspects of an individual's personality, attitudes and behaviours that are linked to offending behaviours. These factors not only contribute to offending but are often the underlying reasons for difficulties in many other areas of their lives.

PBNI developed its programme to address domestic abuse, the Men Overcoming Domestic Violence Programme, in 1998 with the aim of reducing reoffending in adult male domestic abuse perpetrators. This programme was replaced in 2009 by the Integrated Domestic Abuse Programme (IDAP), which is a National Offender Management Service (NOMS) accredited programme. Due to developments in domestic abuse interventions and how best to target male perpetrators, NOMS developed the Building Better Relationships (BBR) programme, which was rolled out in PBNI in 2015. In addition, PBNI has developed alternative interventions to target domestic abuse among non-adjudicated males

through the Promoting Positive Relationships Programme, as well as an educational approach through the Respectful Relationships Programme.

PBNI's approach to effective intervention when working with male perpetrators of domestic abuse is fundamentally an integrated approach. The participants in a programme consent to the sharing of information with the Police Service of Northern Ireland (PSNI) and Social Services in cases where children are involved. In addition, the men provide the details of their victims and current partners to their Probation Officer, who refers victims or potential victims to a Partner Links Worker. This approach enables complete interagency support and supervision, which enhances the risk management of the men.

Evaluating programmes

The evaluation process has helped inform the evolution of PBNI's domestic abuse programmes. A review of the IDAP programme over a five-year period was influential in informing how best to offer male perpetrators of domestic abuse effective intervention. The lessons learnt from the delivery of IDAP have been crucial.

The evaluation design was based on mixed methods of quantitative data derived from IDAP databases and qualitative data derived from interviews and a focus group. This evaluation consists of three main strands: Effectiveness, Processes and Systems, and Victim Impact. Many debates exist about how effectiveness can be measured. In the past, reconviction rates for individuals who have completed programmes have been utilised; however, there are issues to consider in relation to conviction rates for domestic abuse, and the effectiveness of any programme that aims to positively change behaviour cannot be measured by reconviction rates alone. 'We cannot be sure of the apparent programme effect or separate effect of other components. The success of the programme appears to be relegated to the intervention system as a whole' (Gondolf, 2002: 208). The IDAP evaluation attempted to expand on this by considering the perpetrators', victims' and professionals' views when asking if domestic abuse programmes work (Westmarland and Kelly, 2013).

IDAP's roots are in cognitive behavioural therapy, and the theory that influenced the programme was Dutton's Nested Ecological Theory (Dutton, 1995). Nested Ecological Theory acknowledges the many systems and factors that influence how an individual may interpret relationships, and how 'power and control' within abusive relationships

are influenced by what one may experience as a child growing and wider social influences such as media, policy and religion. The programme shares the Duluth Domestic Abuse Intervention Project philosophy (Pence and Paymar, 1993) of embedding a treatment programme within the context of a system that is supportive of that programme consistent with the Nested Ecological Model. The programme was aimed at adult males convicted of domestic violence within heterosexual relationships. The principal programme targets for change were distorted thinking, emotional mismanagement, social skills deficits, problems in self-regulation, and motivation to change.

IDAP was delivered to men in the community who were subject to Probation supervision, in five delivery sites throughout Northern Ireland. The programme was nine months in duration and required significant commitment from participants. The pre-programme and six-month post-programme follow-up work was undertaken by supervising Probation Officers. The primary aims of the programme were to identify, challenge and change men's abusive behaviour.

In summary, the IDAP evaluation highlighted that within a five-year period, 391 regional court referrals were made to the programme. Convictions that led to a referral fell into violent and non-violent categories, reflecting the physical and non-physical behaviours a perpetrator will engage in to instill fear in a victim. Of the 391 referrals, 22% of individuals breached the conditions of their supervision before starting IDAP. Of the 330 individuals who started IDAP, 25% breached the conditions of their supervision while attending the programme and did not finish it. Alcohol and mental health were cited as significant contributory factors in 60% of breach reports submitted to court. This equates to an overall completion rate of 67% in the five-year period evaulated.

Perspectives of the systems and processes

Supervising Probation Officers
Resulting from the complexities of individuals' lives, family and relationship circumstances, the systems put in place to supervise clients need to lend themselves to the sharing of information for risk management purposes and also for the safety of the victim and their children. Supervising Probation Officers are responsible for the initial court assessment of an individual's likelihood of reoffending, as well as consideration of suitability for community supervision and an assessment

of suitability for the programme. To inform their assessment, the Spousal Assault Risk Assessment (SARA) is completed to help determine the risk a male perpetrator may present to potential victims.

The SARA is a clinical checklist of risk factors for spousal assault. It comprises 20 individual items identified by an extensive review of the empirical literature and of articles written by clinicians with experience in evaluating men who abuse their partners (Kropp *et al.*, 1995).

The IDAP evaluation found that the majority of Probation Officers indicated that the SARA was an effective tool for assessing suitability for a referral to IDAP. However, a need for ongoing training to support staff in assessing risk was identified. Probation Officers also identified alcohol/drug use, mental health, learning difficulties, not being fluent in English and denial of behaviour as issues that affect their clients who do not complete the programme.

Based on the growing evidence base and an increase in our understanding of domestic abuse, risk assessment tools have been revised. Probation recognised the need to introduce a robust, structured professional-judgement approach to assessing domestic abuse risk, leading to the roll-out of the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER) (Kropp *et al.*, 2010).

B-SAFER provides evidence-based decisions in relation to risk factors identified in the literature to be pertinent to the perpetration of domestic abuse, and, using professional judgement, the assessors identify risk management plans. Studies of B-SAFER have indicated that inter-rater reliability is good to excellent for professional judgements concerning the presence of individual risk factors and overall levels of risk (Kropp and Hart, 2004).

IDAP facilitators

To deliver a PBNI domestic abuse programme, staff must have previous experience in group work and in supervision of or intervention with individuals engaging in domestic abusive behaviour. Staff require core skills training in the delivery of group work, as well as specialist training in the domestic abuse programme. Programme integrity is maintained with the aid of staff supervision and treatment management.

Facilitators' feedback in regard to the operational systems surrounding IDAP indicated that consistent practice across the region is important. Practitioner meetings occur every two months and aim to share information between all professionals involved in the lives of the IDAP

participants and the victims/partners (i.e. case manager, programme manager, programme facilitator, psychology, Social Services and Women's Aid). At these meetings, the progress of each participant is discussed and any increase in risk to the victim/partner is explored. This promotes an integrated approach, which is essential to managing client risk.

Facilitator feedback at this stage identified the need for a motivational module at the beginning of the programme that could assist in increasing the completion rate. In addition, the parenting module could be strengthened with the inclusion of work exploring the effects of abuse on children. These elements are incorporated into the BBR programme and help provide a holistic approach to managing the men. Facilitators also recommended future joint training with the police, Women's Aid–Women's Safety Workers (WSWs) and other agencies to ensure that what is learned in the group can be reinforced by other professionals in contact with the men.

PBNI is committed to service user involvement and obtaining feedback on learning taken from programmes attended. Such feedback has included the following.

> *I learnt so many things, seriously, recognising the anger and stuff like that; just shortly afterwards you know once you have actually done it [the programme], when you are coming home sitting on a train: why didn't I think of that before? So it did make you think and bring out a lot of things that were possibly already there, I just needed it pointed out to me.*

> *It has affected me in everything, I learned that it can be transferable, you don't necessarily need to be in a relationship, it could be somebody on the street. It is all about your attitude and how you present yourself and how you come across and how you deal with other people, you know, they are all transferable. Even when I think about recognising women's fear, it's transferable – it's just about getting the brain to click a wee bit quicker.*

From this it was recommended that an exit interview with clients would be an added advantage in terms of the overall evaluation of programmes.

Public Protection Units
When men were first assessed for a place on the IDAP programme at

the pre-court stage, they were required to read and sign a statement of understanding. This statement allows Probation to share information with the PSNI regarding the men's allocation, attendance, completion and withdrawal from the programme. Specifically, Public Protection Units (PPUs) consider the risk assessment of domestic abuse perpetrators and put in place the relevant safeguards for perpetrators and victims. The purpose of this sharing of information was to inform the police that a man is attending the IDAP programme, enabling a 'notify if' to be highlighted against the participant's name on the PSNI system if they should come to police attention. The 'notify if' should also allow the PSNI to contact Probation if the participant is in a relationship that has not been disclosed to Probation so that this can be addressed with the perpetrator and potential victim.

Overall, PSNI indicated that they welcome information sharing from PBNI about individuals who are attending the IDAP programme. Respondents indicated variations of practice in different police districts in respect of 'flagging' clients who are attending the programme, and would welcome standardisation of this regionally. Those who attended practitioner meetings indicated that the model was quite effective.

> If police are aware who is on the programme, we can inform Probation when reoffending occurs and vice versa – Probation may be aware of another incident and it may not be reported to police.

Social Services
IDAP operates in five areas throughout Northern Ireland. A representative of Social Services attends practitioner meetings as a single point of contact for information being shared between PBNI and Social Services in cases where children are known to Social Services.

There can be challenges with this model due to the differing boundaries in Northern Ireland between PBNI, Police and Social Services. Social Services operates five trusts regionally.

There had been difficulties in accessing the social workers involved in cases; for example, due to the movement of a child from one team to another. One social worker said that the system of a single point of contact was effective for the sharing of information. However, future practice and evaluation must include feedback from all social workers in all Trust areas, and representatives should attend practitioner meetings regionally to ensure that all relevant information is shared.

Participants

The evaluation aimed to obtain the views of participants through semi-structured interviews with clients who have completed the programme and clients who did not complete. Through random selection, telephone contact was initially made with three clients who had completed IDAP; only one took part in an interview. None of the seven men who did not complete the programme agreed to take part. The issue of limited participant feedback and the need to incorporate feedback in future practice was raised.

Victim impact

The role of the WSWs was essential to any work with male perpetrators of domestic abuse. Bullock (2014) interviewed WSWs based across 10 Probation areas and highlighted differing practices, resulting in tensions in terms of sharing information about risk. 'In principle, the safety of the partners/ex-partners should be at the very heart of IDAP' (Bullock, 2014). PBNI strongly advocated for a dedicated worker to carry out this role, working closely with programme staff. Over time, the WSW role has developed into a PBNI-funded role, called Partner Links Worker, which has been vital in keeping potential victims safe.

The IDAP evaluation used a range of methods (focus groups, questionnaires, analysis of psychometrics and IDAP databases) to explore the systems and processes in place for this role in Northern Ireland and the effectiveness of the programme from the perspective of the WSWs. Information received from WSWs during a focus group provided insight into the potential impact a man attending a perpetrator programme can have on a victim and/or current partners. Key themes that emerged included the following.

Referrals

Telephone contact was reported as the best means of establishing initial contact with the victim/partners.

> *It is really important sometimes to get that initial voice at the end of a phone so that you can really explain what your role is and what your contact with them is about, rather than them being fearful.*

Communication

Throughout the duration of clients' involvement in IDAP there is a need for WSWs to have regular communication with Probation Officers, Social Services and the victim/current partner. Attendance at practitioner meetings and communication via telephone and secure email were identified. The importance of confidentiality was highlighted.

> *I think there are things that I would discuss with women that I wouldn't share with Probation, not necessarily because of any other reason other than it involves events in their lives and it is not directly related to their partner. So perhaps it's about Probation understanding what they can share with us and what we can follow on from that.*

Implications for the future

PBNI introduced the BBR programme in 2015 based on the need to broaden and develop our approach to domestic abuse. The IDAP evaluation helped inform the implementation of BBR and reinforced the need to maintain the system and processes known to work in the delivery of domestic abuse programmes. Two years after the introduction of BBR, it is evident that the robust integrated approach adopted by PBNI continues to promote effective practice. In order to maintain this, a number of areas require ongoing attention.

The wider social debate regarding the measurement of effectiveness of domestic abuse interventions for male perpetrators is relevant to the evaluation of programmes and systems in place to manage them (Bullock *et al.*, 2010). Data are made available to the Department of Justice to identify reconviction rates for clients who have completed or not completed a programme. This will provide insight into how many men have gone on to commit further domestic abuse offences.

A significant correlation has been shown between non-completion of the programme and substance use and mental health difficulties. Further research is being conducted in PBNI to better understand the factors contributing to drop-out, with the aim of increasing programme retention.

Breach of Probation supervision for these men is an important issue. Breach reports on those who failed to complete the programme indicated an inability to manage their emotions, and a lack of problem-solving skills and ability to cope. Unlike IDAP, the BBR programme includes a motivational module as well as individual sessions to explore possible readiness issues.

The IDAP evaluation identified the large number of families who had been supported with safety plans prepared when men were referred to the programme. While there are arguments for and against mandated programmes for domestic abusers (Dutton and Corvo, 2006), the evidence from the IDAP evaluation is that the programme has the potential to have a positive impact on the lives of families.

Since the phase-out of IDAP and the introduction of BBR into PBNI practice, the role of the WSWs has changed to PBNI-funded Partner Links Workers. The IDAP evaluation strongly evidenced the significance of this role in maintaining an integrated approach to the management of perpetrators of domestic abuse. As a result, PBNI has a dedicated Partner Links Worker who informs past, current and/or future victims in a bid to keep them safe.

The IDAP evaluation indicated that the systems in place with partner organisations are effective; however, practice may vary slightly depending on the police district or Social Services area. Partner organisations have indicated that the best practice should be rolled out regionally and that the sharing of information is something that all agencies welcome. As a result, the information-sharing agreement among agencies was formalised, promoting effective practice and joint working.

Further developments

The IDAP evaluation enables PBNI to review practice and the systems underpinning the efficacy of domestic abuse programmes. One aspect that has changed is the risk assessment process for domestic abuse perpetrators. PBNI recognised the shift in effective risk assessment, which has resulted in the implementation of B-SAFER (Kropp *et al.*, 2005).

B-SAFER systematically identifies factors that are relevant to a case, leading to management plans tailored to prevent violence. B-SAFER is based on more up-to-date literature, making decision-making more evidence-based, as well as considering victim vulnerability factors to help adopt a holistic approach to the management of clients.

Since the introduction of BBR and the increased knowledge of the need for participant feedback to inform best practice, feedback forms have been incorporated into programme delivery. The BBR programme has yet to be evaluated; when it is, the participant feedback will be crucial to understanding the impact the intervention has on clients.

Following on from the IDAP evaluation, the Northern Ireland Prison Service (NIPS) offers BBR promoting continuity of domestic abuse programmes. The assessment and delivery models for BBR in custody and in the community are similar. Commencing treatment in custody is beneficial to the men and potential victims, and the work can be continued and reinforced while the men are residing in the community.

Areas for further development include ongoing awareness-raising among the judiciary in regard to the potential impact of sentencing decisions, as well as the high number of breach cases.

Conclusion[1]

The IDAP evaluation helped highlight the complexities for individuals, victims/partners and agencies that are tasked with effectively assessing and providing intervention for medium- to high-risk perpetrators of domestic abuse. The findings highlighted implications and considerations for future practice, and on reflection have informed current practice.

The evaluation precipitated a review of PBNI's pathway for the assessment and treatment of male perpetrators of domestic abuse, leading to robust risk assessment procedures, which are standard across the services, as well as offering different levels of intervention to clients. Research on what works with male perpetrators of domestic abuse is ever evolving and informs practice. PBNI endeavours to continue to review and evaluate the impact of domestic abuse programmes, as the five-year IDAP evaluation has done.

> It behoves all practitioners, researchers, policy makers and funders to be modest about their claims of success or otherwise of their own preferred approach or of other approaches. There is, as has been said 'weak evidence for batterer programme alternatives' (Gondolf, 2012), as well as evidence that research cannot show conclusively that current programmes and perpetrator treatment reduce domestic violence (Feder, Austin & Wilson, 2008). (Respect, 2014)

---

[1] The five-year IDAP evaluation was an internal evaluation, and quantitative findings will not be published outside the organisation.

References

Bullock, K. (2014), 'Integrated approaches to domestic violence? An exploration of the role of the victim and Women's Safety Work in cognitive-behavioural programmes', *Probation Journal*, vol. 61, no. 1, pp. 27–43

Bullock, K., Sophie, S. and Tarling, R. (2010), *The Delivery of Domestic Abuse Programmes: An Implementation Study of the Delivery of Domestic Abuse Programmes in Probation Areas and Her Majesty's Prison Service*, London: Ministry of Justice

DHSSNI and Department of Justice (2013), *Domestic and Sexual Violence Strategy Northern Ireland 2013–2020*, Belfast: DHSSNI

Dutton, D.G. (1995), 'Male abusiveness in intimate relationships', *Clinical Psychology Review*, vol. 15, pp. 567–581

Dutton, D. and Corvo, K. (2006), 'Transforming a flawed police: A call to revive psychology and science in domestic violence research and practice', *Aggression and Violent Behaviour*, vol. 11, pp. 457–483

Feder, L., Austin, S. and Wilson, D. (2008), *Court-Mandated Interventions for Individuals Convicted of Domestic Violence*, Oslo: Campbell Collaboration Systematic Reviews

Gondolf, E. (2012), *The Future of Batterer Programs*, Boston: Northeastern University Press

Gondolf, E.W. (2002), *Batterer Intervention Systems: Issues, Outcomes and Recommendations*, Thousand Oaks, CA: Sage

Harper, G. and Chitty, C. (2005), *The Impact of Corrections on Re-offending: A Review of 'What Works'* (3rd ed.), London: Home Office Research, Development and Statistics Directorate

Kropp, P. and Hart, D. (2004), *The Development of the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER): A Tool for Criminal Justice Professionals*, Ottawa: Department of Justice Canada, Research and Statistics Division

Kropp, P.R., Hart, S.D. and Belfrage, H. (2005), 'Vancouver, BC', in *Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER): User Manual*, Vancouver: ProActive ReSolutions

Kropp, P.R., Hart, S.D. and Belfrage, H. (2010), *Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER), Version 2: User Manual*, Vancouver: ProActive ReSolutions

Kropp, P.R., Hart, S., Webster, C.D. and Eaves, D. (1995), *Manual for the Spousal Risk Assessment Guide*, Vancouver: The British Columbia Institute on Family Violence

Pence, E. and Paymar, M. (1993), *Education Groups for Men Who Batter: The Duluth Model*, New York: Springer

Respect (2014), *What Is the Evidence Base for Interventions with Domestic Violence Perpetrators?*, available at http://respect.uk.net/wp-content/uploads/2014/01/what-is-the-evidence.pdf (accessed 18 August 2017)

Westmarland, N. and Kelly, L. (2013), 'Why extending measurements of "success" in domestic violence perpetrator programmes matters for social work', *British Journal of Social Work*, vol. 43, no. 6, pp. 1092–1110

World Health Organization (2012), *Intimate Partner Violence*, available at http://apps.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf (accessed 22 August 2017)

An Economic Evaluation of Reducing Offending in Partnership

Glenn Parker and Gail McGreevy★

Summary: Reducing Offending in Partnership (ROP) is a partnership aimed at reducing the reoffending of the most prolific offenders in Northern Ireland. This article reports on a research study that provided an economic assessment of the overarching ROP programme by examining the input costs and outputs of the programme under a single comparative economic model. Specifically, the research examines the criminal activity of over 100 priority offenders who joined the ROP programme in 2014. The study also provides analysis on the financial investment and the overall value for money of the programme by assessing its net economic benefit and cost-benefit ratio.

Keywords: Reducing Offending in Partnership, Northern Ireland, criminal justice, economic evaluation, prolific offenders, evidence, PBNI, PSNI.

Introduction

Helping make communities safer is a key objective of the Police Service of Northern Ireland (PSNI), the Probation Board for Northern Ireland (PBNI), the Youth Justice Agency (YJA), Northern Ireland Prison Service (NIPS) the Department of Justice (DOJ), as well as other organisations working within the criminal justice sector. While recorded crime in Northern Ireland is low in comparison to other areas of the UK, we know that fear of crime remains high and that there is particular concern in communities about priority or prolific offenders. With this in mind, the DOJ, PBNI, NIPS, PSNI and YJA came together to form a partnership aimed at reducing crime and dealing with the most prolific offenders.

★ Glenn Parker is an economist in the Economic Advisory Unit of the PSNI (email: Glenn. Parker@psni.pnn.police.uk). Gail McGreevy is Head of Communications in PBNI (email: Gail. McGreevy@pbni.gsi.gov.uk).

This partnership is called Reducing Offending in Partnership or ROP (Doherty and Dennison, 2013).

ROP is a Northern Ireland-wide approach to the management of priority or prolific offenders. Its objective is to manage people who are at high risk of offending/reoffending and who are causing significant levels of harm within their community.

Offenders are defined by Police in Reducing Offending Units who use a matrix to identify prolific offenders in a particular area. This provides a basis for discussion with partner agencies, based on the risk assessments carried out on those offenders by the respective agencies, leading to confirmation of the offenders deemed to be a 'priority'. ROP is structured around three strands:

- *Prevent and Deter* – early-stage identification and effective intervention strategies to reduce crime and antisocial behaviour among young people
- *Catch and Control* – proactive approach by police and partners to target prolific offenders who persist in their offending behaviour
- *Rehabilitate and Resettle* – partnership working with statutory, voluntary and community sector to support offenders in addressing the issues that will promote their effective resettlement and reduce the risk of reoffending.

At the core of ROP is the delivery of a managed set of interventions, sequenced and tailored to respond to the risks and needs of the individual. So, for example, many of those identified under ROP have very little education or training. Therefore many of the interventions revolve around referring individuals to organisations that can help build skills. Such interventions have the aim of disrupting the offender's criminal activity, thereby reducing their reoffending.

ROP is about providing a more co-ordinated and joined-up approach to dealing with prolific offenders. The relevant agencies work together and share information in a more inclusive and cohesive manner and deliver a set of interventions with the aim of disrupting the offender's criminal activity. It is a local response to local problems.

ROP is modelled on Integrated Offender Management (IOM) initiatives that have been developed in a number of areas of England since 2008 to assist the criminal justice agencies in the management of priority groups of offenders (Senior, 2014). It was piloted in Ballymena and Coleraine (PSNI H District), with results indicating that 68% of priority

offenders involved reduced their offending behaviour while engaged in ROP during 2011/2012. Based on these results, the programme was subsequently expanded province-wide (Doherty and Dennison, 2013).

Aim of economic evaluation

The aim of economic evaluation is to inform thinking on whether the investment in the project generates sufficient additional benefits compared to the additional costs to make it worthwhile. This information can be used to provide evidence to support determinations of value for money and inform decisions on resource allocation between policy options. This evaluation was carried out by the Economic Advisory Team within the PSNI.

Methodology

The methodology employed to evaluate the ROP programme and inform the report utilised two economic techniques: cost-effectiveness and cost-benefit analysis. Essentially, cost-benefit analysis is a technique to ascertain whether the programme is worthwhile, i.e. is it 'value for money' for the Northern Ireland taxpayer? A summary of the key methodological stages used to develop the economic model is provided below.

Cost-effectiveness analysis and cost-benefit analysis
Cost-effectiveness analysis (CEA) estimates the costs of achieving defined outcomes, typically measured in terms of a reduction in crime or in reoffending. Cost-benefit analysis (CBA) builds on CEA by attaching monetary values to the outcomes of an intervention, and therefore enables a direct monetary comparison to be made.

Cost-benefit analysis is generally articulated in terms of a benefit/cost ratio, where the value of outcomes (i.e. project benefits) is divided by the project input costs. Alternatively cost-benefit analysis can refer to the net economic benefit, which is simply the sum of the value of benefits less the sum of input costs. From an economic perspective, a programme should seek to maximise the benefit/cost ratio or the net economic benefit (or minimise the net economic cost).

Analysis of previous research reports found that many IOM interventions assessed the outcome of the programme by quantifying the reduction in crime (Senior, 2014). Since crime has costs to society (including costs to victims, potential victims and the criminal justice

system), the value of an intervention can be measured by the avoidance of costs (savings) to society of crimes that would otherwise have taken place. In order to calculate the savings to society resulting from an intervention, it needs to be known how much crime has been prevented as a result of the intervention, and how much this (prevented) crime would have cost.

Not all crimes have the same level or type of costs to society. In a CEA the simple quantification of crimes prevented ignores the difference in the quality of outcomes achieved. By attaching monetary values to different types of crime, CBA can measure this outcome quality. This is done by estimating, as accurately and convincingly as possible, the average cost to society of different types of crime. The total value of benefits as a result of the intervention can then be estimated by multiplying the number of crimes prevented by the average cost of a crime. The CBA will help to determine to what extent interventions have been successful in reducing the cost of crimes to society.

Economic model

Key high-level stages in developing the economic model are summarised in Table 1.

Table 1. Key high-level stages in developing the economic model

Step	Process
1	Define the intervention and its objectives.
2	Identify inputs (i.e. stakeholders).
3	Specify data requirements and sample size.
4	Identify outputs and outcomes.
5	Quantify inputs.
6	Quantify attributable impacts and outcomes.
7	Value inputs (costs).
8	Compare input costs with outputs and outcomes.
9	Value outcomes (benefits).
10	Compare costs with benefits.

Define the intervention and its objectives
The ROP programme was designed as an intervention dedicated to changing offending behaviour, which is illustrated by a resultant reduction in the volume of crime and seriousness of crime committed.

Identify inputs (i.e. stakeholders)
The inputs were recognised as full-time dedicated PSNI Reducing Offending Unit (ROU), Officers and Youth Diversion Officers (YDOs). Input from PBNI, NIPS, DOJ and YJA was valued as the additional time dedicated to the programme above their normal business, which was in the form of time spent at steering and working group meetings. The total number of staff and the organisational composition were based on staffing levels working on the programme in 2014.

Specify data requirements and sample size
Initially it was intended that the dataset consist of every individual currently participating in the ROP. This would involve the collection of data on a district-by-district basis, which would then be aggregated. A NISRA[1] statistician verified and provided support in sourcing the required conviction data. The remit for the data requirement was as follows:

•   the measurement of the number of crimes by crime type committed[2] by offenders during the time they were participating on the ROP programme (12 months)
•   the measurement of the number of crimes by crime type committed by offenders during an equal time period before they were introduced onto the ROP programme (12 months)
•   the ROP Offender lists were used from 2014
•   the initial date each offender was initiated as part of the ROP programme was recorded
•   the input costs included any full-time equivalent (FTE) dedicated resources towards managing and supporting the ROP programme
•   generic information such as gender, NICHE URN (a police records management system), age and police district.

---

[1] Northern Ireland Statistics and Research Agency. https://www.nisra.gov.uk/
[2] 'Committed' is defined as those convicted of offence(s).

Identify outputs and outcomes

The main data source used to measure reoffending rates is supplied to the Department of Justice's Analytical Services Group from the Causeway Data Sharing Mechanism (DSM1). The information used is primarily created from an extract of records held on the Criminal Records Viewer (CRV). The CRV is held on Causeway and utilises data that originated from PSNI, along with data from Northern Ireland Courts and Tribunals Service.

Crimes were measured during a defined period when the offender was on the ROP programme and compared to the same period prior to their being added. The period analysed was 12 months before joining the programme and 12 months after joining the programme.

Offence data were provided by a statistician from DOJ who extracted the data from the CRV system, which ensured that all offences attributed to an offender had been 'resulted'. There may have been instances where, due to the time lapse between an offence being committed and resulted through the judicial system, some offences were not included.

The ROP cohort from 2014 (358 individuals) was selected for analysis as this would enable 12 months of crime to be assessed before and after they joined the programme. So what was compared was the rate of offending pre- and post-ROP engagement.

It is important to note that at the time of analysis conviction data were only available from the Causeway data system for crimes convicted up to the end of 2015.

Each crime committed by an offender during the set period was recorded by Offence Type within the economic model.

Quantify inputs

In the 2014 report, the input costs of the programme consisted of the time each organisation (DOJ, NIPS, PBNI, JYA and PSNI) spent facilitating and delivering the ROP programme in 2014. The input varied between organisations; unsurprisingly, the PSNI accounted for the largest proportion of staff. This report utilised the 2014 staff input costs and uplifted these with the latest staff ready reckoner costs (2015/16).

Quantify attributable impacts and outcomes

The recorded incidence of crime for each individual was modelled to reflect the incidence of crime before and after the intervention. Using

crime multipliers issued by the Home Office, it was possible to arrive at an estimate of the actual incidence of crime before and during the intervention, thereby arriving at a more accurate picture of volumes of crime and any corresponding increase/decrease brought about by the intervention. The project team felt that the crime multiplier would be expected to be less during the intervention as the individuals were being monitored more closely, therefore there was less uncertainty about their actual volume of crime committed; however, as this report follows the Home Office guidance, that is considered outside the scope of this evaluation.

Value inputs (costs)

For PSNI costs, a list of officers by rank was provided to calculate the policing input. A PSNI staff ready reckoner was then used to ensure that the costs were revised to reflect costs in 2016 prices. These costs made provision for accommodation and other employer costs. An assumption was made to utilise the annual salary costs of the PSNI officers, as a year was the average period offenders were on the ROP programme. For the other collaborative partners, a similar approach was adopted whereby the organisation was asked to provide a cost valuation of their resource input – thereby ensuring that the totality of delivery costs is included in the analysis.

Due to the varying numbers of offenders in the sample for each district, it was decided to first take the proportionate quantity of PSNI resources dedicated to each district and apply the same proportions to the input costs of the other government bodies involved. An adjustment then had to be made to accurately reflect the actual input costs directed towards each district, therefore a weighted average of the proportion of total offenders and the proportion of total PSNI resources was calculated in order to spread these costs more realistically across the districts. As only 31% of the ROP offending population was being analysed, an assumption was made to use a corresponding 31% of the total input cost.

Compare input costs with outputs and outcomes

This is essentially CEA for which the ROP input costs for the sample were divided by the volumetric reductions in recorded and estimated crime during the intervention.

Value outcomes (benefits)

In order to value outcomes (outputs) and in line with Home Office Guidance, the analysis utilised the Home Office research to estimate the cost of crime. The unitary cost of crime estimates were uplifted using ONS[3] GDP deflators to ensure the cost of crime reflects costs in 2016 prices.

Compare costs with benefits

This step is essentially CBA where the sample benefits as a result of the estimated reduced crime were divided by the sample input costs in order to arrive at a measure of value for money. Another measure calculated was the net economic benefit, which is essentially the benefit realised as a result of the reduced crime and the corresponding unit costs of crime minus the ROP input cost for the sample considered.

A sensitivity analysis was conducted to consider both reductions and increases in the ROP input costs at the 5% and 10% margins.

Data limitations

In conducting this research, the model encountered a number of data limitations, which is not unexpected as data-dependent analysis generally encounters multiple limitations and restrictions.

Unfortunately the full ROP dataset could not be extrapolated due to issues with data retention and available resources within the ROP units. Out of the full cohort (358 individuals), over 150 individuals were originally selected for potential analysis. However, following detailed analysis, only 112 individuals were eventually selected as a range of individuals didn't meet the selection criteria within the model (mainly due to spending time in prison (more than one month) during the ROP period[4]). This equates to 31% of all ROP offenders (22% in the 2014 report), and is considered a broad representative sample to avoid selection bias.

While the initial intention was to evaluate every cohort of ROP participants, it was felt that the sample selected should be representative and could be apportioned accordingly to reflect the overall programme from a cost and benefit perspective.

---

[3] Office for National Statistics: https://www.ons.gov.uk/

[4] If the person had spent more than one month in prison they were excluded from the model. This reduced the sample size by approximately 30%. If those people had been included it would not have been a true impact, as although crime levels would likely have fallen this would have only been because they couldn't commit crimes due to being in prison. It would not have been due to the ROP programme.

The Home Office cost of crime estimates provide indicative costings for a number of crime categories; however, the data sample contained a broad range of categories that were not reflected in the costings. To overcome this, the project team further categorised these crimes under the following headings: 'antisocial behaviour crimes', 'crimes of dishonesty', 'attempted crimes', 'drug-related crimes', 'technical breaches', 'motoring offences', 'personal or commercial categorisation' and 'crimes leading to potential violence or criminal damage'.

The values attributed to these crimes were based on using a lower unit cost of crime which was derived from the Home Office costings. This was in keeping with the fact that crimes falling within these categories would be less cost burdensome than more serious crime types. This approach was adopted in the previous economic evaluation of the programme in 2014.[5]
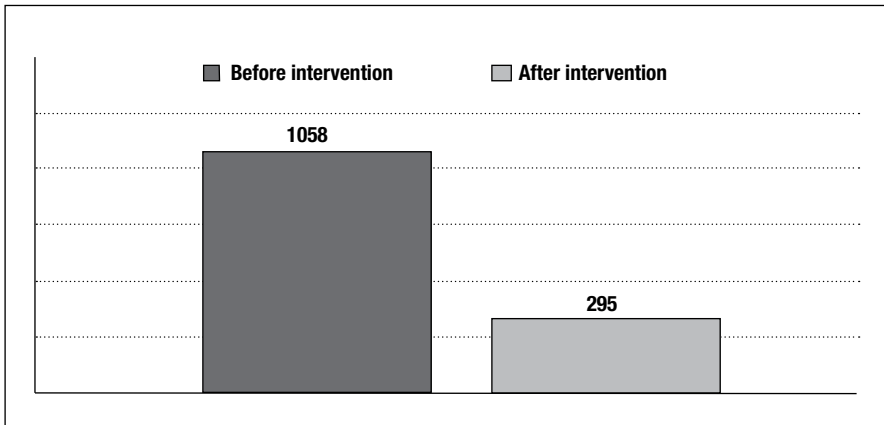
The costs of crime estimates adopt a 'multiplier' approach when linking into the analysis. Essentially this approach ties the estimated total number of incidents to changes in the number of recorded offences. For each crime, a multiplier has been calculated equal to the ratio of the actual estimated number of crimes to the number of crimes recorded. The analysis conducted in this evaluation applies that same multiplier before and after ROP participation.

However, it is likely that once on the programme and due to tighter observation and control, the propensity for the individual to participate in other unrecorded crime should be reduced. In theory the multiplier should be less and the 'before and after' effect should show a greater gap (enhanced benefit). It was not in the remit of this project to calculate new multipliers post-participation, and this does have a small but manageable bearing on the figures resultant from the analysis.

Results

Overall it is estimated that every £1 spent on ROP returns a benefit of £2.20 in the form of reduced economic and social costs of crime. This corresponds to a net economic benefit of £1.97m over the 12-month sample timeframe. As this sample was 31% of the total offender population in the ROP programme, an assumption can be made that the actual net economic benefit over this period was in the region of £6.34m, or possibly more if increasing returns to scale were present.

[5] http://www.pbni.org.uk/wp-content/uploads/2015/04/Reducing-Offending-in-Partnership-01.04.15.pdf

Figure 1. Recorded crime

Cost-effectiveness

In order to determine the cost-effectiveness of the programme, an overall volumetric analysis of crime was undertaken and categorised as shown in Figure 1. The analysis of the data found that 1058 crimes were recorded from individuals before they went on the ROP programme. During the 12 months on the programme the incidence of crime fell to 295, a reduction of 72%, which is a robust indicator that the programme is having a positive impact on crime. This significant reduction suggests that the increased resources (particularly PSNI officer time) being devoted to the programme are having an impact.

In terms of crime committed by offence type, the research found that there was a significant reduction across most crime categories. Robbery and shoplifting saw a reduction of 100% over the period, but it is important to note that the sample size for these crimes started from a small base (six and nine respectively out of 112). Sexual crimes were the only area that saw an increase over the period, with the number increasing from one to two. However, this was a very small increase.

In volume terms, crimes such as violence against a person, general theft, miscellaneous crimes (e.g. drug-related crimes, motoring offences and technical breaches), criminal damage and public order offences had the biggest drop in actual offences.

It is worth noting that the level of crime recorded in Northern Ireland in 2015/16 is the seventh lowest crime figure recorded since 1998/99.

The decrease in crime has mainly been experienced within the offence categories of theft (including burglary) and criminal damage, while offences of violence against the person and sexual offences have shown an upward trend. As a result, the profile of crime has changed between 1998/99 and 2015/16. In 1998/99 violence against the person, sexual offences and robbery accounted for one in five crimes (excluding fraud), while theft (including burglary) and criminal damage accounted for three out of four crimes. In 2015/16 the proportion of crime represented by theft (including burglary) and criminal damage fell from three-quarters to half of all crimes recorded (excluding fraud), while the proportion of violence against the person, sexual offences and robbery offences increased from one in five to nearly two in five crimes.[6] Initiatives such as ROP will have impacted on overall crime figures.

Economic benefits
Analysing the projected crime savings against the project input costs allows an assessment to be made on the overall net economic benefit (or cost) of the programme. If the net economic benefit is positive, then the benefits outweigh the cost of the programme and justify the decision to operate the programme (i.e. it represents value for money). If the benefits–cost ratio is greater than 1 then there is a return on every £1 invested via the benefits achieved through reduced cost of crime.

Overall the programme had a crime saving of £3.6m, a net economic benefit of £1.97m and a benefit–cost ratio of £2.20 (for 31% of the programme). The above analysis is based on the assumption that the sample size is 31% of the total ROP offender population. If we assume that only 31% of the benefits are represented in the above table, then if we prorate these benefits we can assume that the full crime savings are £11.64m and the net economic benefit of the full programme (100% of all offenders) is approximately £6.34m.

It should be noted that this is an estimate around the potential economic benefits of the programme for all individuals on the programme. It is not a definitive figure but more an indication of the scale of the potential benefits to be realised and a gauge of the programme's effectiveness for all of society.

---

[6] PSNI Annual Crime Figures: https://www.psni.police.uk/inside-psni/Statistics/police-recorded-crime-statistics/w

Conclusions

Reducing offending (particularly of priority offenders) through collaborative working is a key priority for a wide range of stakeholders within Northern Ireland. Overall, this evaluation provides confirmation that the ROP programme is continuing to be a success from an economic perspective.

The key objective of this evaluation was to examine the evidence to assess whether the input costs and the subsequent outputs justify the investment and financial commitments to the programme. At a macro level, the research has found strong evidence that the programme is delivering a reduction in crime incidence, it is creating financial savings (in terms of reduced crime), and it is achieving net economic benefits across all policing districts within Northern Ireland. The overall cost of the ROP programme during the assessment period was £5.2 million, and this largely consisted of police officers' salary costs (approximately 98% of the total project costs). In terms of crime savings, the research estimated that financial savings of approximately £3.6m have been accrued from the programme. The model also found robust evidence that the programme is continuing to have a beneficial impact on the rate of crime committed, estimating a reduction in the incidence of crime of approximately 72%.

Translating the costs and benefits into a comparative model, it is estimated that the programme is delivering a net economic benefit of £1.97m or a benefit–cost ratio of 2.2, which highlights that for every £1 spent on the programme an economic benefit of £2.20 is generated in the form of reduced economic costs of crime.

Aggregating the sample size from 31% to 100% increases the financial savings estimated from the programme to £11.64m and the economic benefit of the programme to £6.34m. It is important to note and recognise the potential limitations of this pro-rata approach, as under this scenario the benefits being derived from 31% of the individuals within the programme are considered to be proportionately replicated when the full cohort of individuals on the programme is assessed.

Overall the findings from the analysis indicate that the programme is both cost-effective and beneficial from a financial and value-for-money perspective. It is important to note that there are some limitations with the model and the sample size, and these have been comprehensively outlined earlier in this report.

Further evaluative work could enhance the findings from this research by boosting the sample size, utilising a control group, and assessing and tracking individuals on the programme for a longer period than 12 months.

References

Doherty, T. and Dennison, M. (2013), 'Reducing offending in partnership', *Irish Probation Journal*, vol. 10, pp. 154–161

Senior, P. (2014), 'Integrated offender management: Pooling resources and expertise and creating effective working partnerships', *Irish Probation Journal*, vol. 11, pp. 7–28

What Exactly is a Community Service Order in Ireland?

Eoin Guilfoyle★

Summary: This article examines the Irish Community Service Order (CSO), from its origins to its present-day operation. It outlines how the Irish CSO differs from community service sanctions in other jurisdictions and highlights why it is important that there is clarity about what the CSO currently is in Ireland. While the legislation that introduced the CSO in Ireland was almost identical to the corresponding legislation in England and Wales, there were substantial differences between the English and Irish CSO. The author seeks to identify the limits and boundaries of the CSO in law and in practice in Ireland. He considers how far the use of the CSO could be expanded without net-widening or it being imposed on offenders for whom it is not appropriate. With the decline in CSO numbers in recent years and increasing knowledge on offenders' problems and needs, the author asks whether the CSO can or should adopt a rehabilitative purpose and approach.

Keywords: Community Service, imprisonment, sentencing, alternatives, community sanctions, rehabilitation.

Introduction

Many jurisdictions around the world now operate some form of community service (unpaid work) sanction. The international experience and the many variations of community service that now exist can create a degree of uncertainty and confusion when the Irish Community Service Order (CSO) is discussed. This article seeks to provide clarity as to what exactly the CSO is in Ireland.

Understanding this is vital in order to allow for the accurate assessment of the Irish CSO's effectiveness and of its limitations and boundaries. This, in turn, is necessary to provide a solid base for future discussions

★ Eoin Guilfoyle is a PhD candidate in the School of Law, University of Limerick (email Eoin. Guilfoyle@ul.ie).

about the CSO and the potential role it can play in reducing the number of people sentenced to prison each year in Ireland.

To provide this clarity, the article begins with an exploration of the origins of community service as a penal sanction and sets out the original concept of the CSO. It then examines the introduction of the CSO in Ireland. Previous commentary has suggested that the CSO as introduced in Ireland was almost identical to the original concept and to the CSO operating in other jurisdictions at that time.

It is argued that if one focuses solely on the legislation, this does appear to be the case. However, if one examines how the sanction was implemented in practice in Ireland, important differences become apparent.

The article examines the subsequent changes and development over the years to set out what the CSO has now become. It concludes by highlighting how the Irish CSO differs from community service sanctions in other jurisdictions and by outlining why it is important that there is a clear understanding of the CSO that is currently operating in Ireland.

The origins of community service as a penal sanction

It is necessary, before exploring the original concept of the CSO, to identify when and where the sanction originated. This has given rise to academic debate over the years (Kilcommins, 2014: 488). In short, many argued (Young, 1979; Pease, 1981; Vass, 1984) that the origins of the CSO could be traced back through work-based penal sanctions such as slavery, transportation, penal servitude and impressment.

Kilcommins (2014: 489) strongly disputed this, claiming that tracing continuities and affinities in this way is ahistorical and 'distorts the contemporary significance and character of CSOs whilst also obscuring the contextual usage of past penal practices'. He contends that when exploring the origins of the CSO, one need not look beyond the jurisdiction that first introduced a community service sanction within its formal criminal justice system.

If this criterion is used, then two jurisdictions come to the forefront: Tasmania, and England and Wales. Both passed legislation in 1972 that provided judges with a new option to sentence offenders to perform unpaid work in the community. In deciding in which of these jurisdictions to begin examining CSOs, another factor must be considered. This article seeks to explore the origins of community service from an Irish perspective.

England and Wales is therefore the most logical and beneficial starting point, as the Irish CSO has undeniably strong roots in the English and Welsh CSO. The same cannot be said of the Tasmanian sanction.

The CSO in England and Wales – 'the original concept'

The CSO emerged in England and Wales at a time when there was widespread disillusionment with imprisonment. The prison population was growing rapidly (House of Commons, 2016: 25); there was overcrowding in prisons (Home Office, 1969); and there was a growing awareness of the degrading conditions prisoners were being forced to live in (Young, 1979: 4–6). These issues were becoming a concern for policy makers, from both a financial and a humanitarian standpoint.

It was pressing, therefore, that a way be found to halt the expansion of the prison population. With crime rates rising, there was also a growing realisation that the causes of crime were far more complex than previously thought. This was creating doubt that the existing range of non-custodial measures would be appropriate in every situation in which a non-custodial option might be contemplated (Young, 1979: 9).

These factors would have contributed greatly to the thinking of the Home Secretary, Roy Jenkins, in 1966 when he asked the Advisory Council on the Penal System (ACPS) to consider what changes and additions could be made to the existing range of non-custodial penalties (Home Office, 1970: 1). The Council appointed a non-custodial and semi-custodial penalties subcommittee, chaired by social reformer Lady Barbara Wootton, to carry out this task.

Its report (the Wootton Report: Home Office, 1970) recommended the development of a new sanction that would require offenders, in appropriate cases, to engage in some form of part-time service to the community. Within 18 months, the committee's recommendation had become a Bill and this quickly made its way through Parliament. It received widespread support from both sides of the House and the Criminal Justice Act 1972 was signed into law. Section 15 of the Act provided for the introduction of a new sanction: the CSO.

So what exactly was the original concept of the CSO as set out by the Wootton Committee and brought into existence by the Criminal Justice Act 1972? The CSO was presented as a sanction with the overarching goal of diverting offenders from custodial sentences and ultimately reducing the prison population (and with it the cost of operating the

prison system). This was a key selling point of the new sanction and was widely accepted and welcomed by parliamentarians across the political spectrum. It should be noted, however, that while the CSO was referred to in the Wootton Report (Home Office, 1970: 13) and regularly spoken about during the parliamentary debates as an alternative to prison, the legislation did not limit the use of Community Service to such cases. It allowed the CSO to be used in circumstances where an offender had been convicted of any offence *punishable* by imprisonment. This meant that a CSO could be imposed on offenders who would otherwise not have received a prison sentence, as there are many imprisonable offences that seldom result in offenders being sentenced to imprisonment.

While the overarching goal of the sanction was to reduce the use of imprisonment and assist in addressing the prison crisis, the CSO itself was put forward as a sanction that could, on an individual basis, achieve a range of penal purposes or functions.

Firstly, the CSO was to be capable of punishing offenders. This could be achieved by requiring offenders to give up their spare time to perform unpaid work in the community. The punitive element of the CSO was not in the work carried out, but rather in the deprivation of the offender's leisure time.

Secondly, the CSO was to have a rehabilitative function. Kilcommins (2002: 359–402; 2014: 493–502) identifies a number of social, political and cultural factors that existed in England and Wales at the time that are key to understanding the rehabilitative design of the sanction. Two in particular are worth noting here – the rise in the ideology of the community and the growth of voluntary service.

Central to the rehabilitative function of CSOs was improving offenders' self-worth, self-esteem and self-confidence. This could be achieved by offenders performing work in the 'community' of benefit to the community and/or to persons in need. It was hoped that by doing so, offenders would develop a sense of social responsibility and that their outlook and their role in society would change.

The type of work offenders performed was also important to the CSO's rehabilitative function. It was believed that by being engaged in meaningful work, offenders would find 'an alternative and legitimate source of achievement and status' (West, 1976: 74). It was further stressed in the Wootton Report (Home Office, 1970) that, where possible, community service tasks should be performed alongside other workers or non-offender volunteers. As well as benefiting from the work they

were performing, it was thought that offenders would benefit from the 'wholesome influence' of those voluntarily engaging in community service and from the additional support of working within a group.

Finally, CSOs were to be capable of being reparative. This would be achieved by offenders performing work that was of benefit to the 'community' and hence 'repairing' damage they had caused to the community/society by their offending behaviour. It would not involve reparation to individual victims or groups, so the reparative element of the CSO was symbolic.

The multitude of penal functions meant that the CSO could be all things to all people, regardless of their penal philosophy. Whether one favoured punishment, deterrence, rehabilitation, reparation or just reducing the cost of operating the criminal justice system, the CSO offered something.

CSOs were introduced as a pilot scheme in 1973 before being rolled out nationwide in 1974. Early evaluation studies showed modest results, at best (Pease, 1975; Pease *et al.*, 1977). A reconviction study found no evidence of a reduction in reconviction rates among offenders sentenced to a CSO and it was suggested that only 45%–50% of offenders who were sentenced to a CSO would otherwise have been sentenced to imprisonment (Pease *et al.*, 1977).

While this indicates that CSOs were having some positive impact, proponents of the sanction would have wanted these figures to be much higher. Two Home Office studies (Pease, 1975; Pease *et al.*, 1977) concluded, however, that the modest results from their evaluations could be explained by the fact that the CSO was in its early stage of development. They believed that the results would likely improve as practical difficulties were ironed out. There seemed to be a general acceptance among politicians, academics and the media that the idea was good, and the focus should be on improving the operation of the CSO to allow it to fulfil its potential.

As other jurisdictions around the world began to experience the same conditions that had led to the emergence of the CSO in England and Wales (rising prison population and crime rates), many looked to the experience of England and Wales and to the concept of the CSO. While evaluation studies in England and Wales were not producing overwhelmingly positive results, the concept was viewed as promising.

Many jurisdictions around the world in the late 1970s/early 1980s introduced sanctions closely modelled on the design of the English/Welsh

CSO (Scotland in 1978; Ontario, Canada in 1978; New Zealand in 1980; all the states in Australia by 1982), while many more were in the process of doing so. It was within this landscape that Ireland began to explore the possibility of introducing a community service sanction of its own.

The introduction of the CSO in Ireland

In the late 1970s/early 1980s Ireland was experiencing a prison numbers crisis. Between 1960 and 1982 there was a 200% increase in the prison population (MacBride, 1982: 9). Prisons became overcrowded (Kilcommins *et al.*, 2004: 237). Conditions began to deteriorate, giving rise to humanitarian concerns (Report on Prisons and Places of Detention, 1984, 33). There was growing scepticism about the effectiveness of imprisonment in rehabilitating offenders (Jennings, 1990: 110–112) and the cost of operating the prison system began to rise at an unsustainable rate (NESC, 1984: 213). Crime rates were also on the rise, and this fuelled the crisis by ensuring an increasing flow of offenders entering the criminal justice system (*Report on Crime*, 1977: 3; 1981: 3).

At the time, there was a well-established practice of legislative transference from Britain to Ireland, particularly in the criminal justice system. So, in seeking a solution to the prison crisis and the rising crime rate, politicians in Ireland did as their predecessors had done many times before, and looked to England and Wales. What they found was the CSO.

As referred to above, while reviews of the CSO were modest, there was a high degree of positivity surrounding the sanction (Pease, 1975; Pease *et al.*, 1977; Young, 1979) and it had found favour at the Council of Europe (Jennings, 1990: 120). Encouraged by this, policy-makers in Ireland, following a brief consultation process, drafted the Criminal Justice (Community Service) Bill 1983, which was introduced in Dáil Éireann[1] on 12 April 1983.

The Bill was almost identical to the legislation introduced in England and Wales a decade earlier: so much so that it led one member, Professor John M. Kelly, to say that it was 'simply one more example in the ignominious parade of legislation masquerading under an Irish title … which is a British legislative idea taken over here and given a green outfit with silver buttons to make it look native' (Dáil Debate, Vol. 342, Col. 169, 3 May 1983).

---

[1] Dáil Éireann is the lower house and principal chamber of the Oireachtas, the Irish Parliament. www.oireachtas.ie

The Minister for Justice, Michael Noonan, in commending the Bill to the Dáil, acknowledged and accepted that it 'coincides, to some extent, with the relevant British legislation' but said that 'the opportunity has been taken to improve where possible, in the light of British experience on the corresponding British legislation' (Dáil Debates, Vol. 341, Col. 1331, 20 April 1983).

The 'improvement' the Minister was referring to, and the only major difference between the two pieces of legislation, was that in the Irish bill a CSO could be imposed only as an alternative to a sentence of imprisonment.

A Home Office Study (Pease *et al.*, 1977) had reported that over half of the CSOs in England and Wales were imposed as an alternative to other non-custodial sanctions, limiting the sanction's impact on the prison population. It was clear that in Ireland the primary reason for introducing the CSO was to reduce the number of people sent to prison. To limit the potential for net-widening and increase the impact that the CSO would have on the expanding prison population, a requirement was added to the Irish legislation that allowed a CSO to be used only as an alternative to imprisonment and not as a sanction in its own right.

The Criminal Justice (Community Service) Bill 1983 quickly made its way through the Houses of the Oireachtas, receiving support from all the major parties. As in England and Wales, the CSO was put forward as a sanction that could achieve a range of penal functions and give rise to many benefits. With crime rates rising and crime becoming a public concern, the government did not want to be seen as introducing a measure that would give offenders the option of avoiding imprisonment simply to reduce prison numbers and save money.

Opposition politicians also did not want to be seen supporting such a move. There was, therefore, a strong focus throughout the Oireachtas Debates on the many benefits of the CSO and the many penal functions it could achieve (punishment, rehabilitation, reparation). In Ireland, unlike England and Wales, the relevant bill was passed without in-depth analysis of the CSO's core concepts or how it was going to achieve its touted functions and benefits. It was simply accepted that it would be capable of doing so.

On 13 June 1983, the Criminal Justice (Community Service) Act 1983 was signed into law. It gave judges the power to sentence offenders to perform between 40 and 240 hours' community service as an alternative to a sentence of imprisonment. The Act, with the supplementary Rules and Regulations, set the parameters within which the CSO would operate.

Reading the Act, it appears that Ireland had introduced a sanction very similar to that operating in England and Wales. However, if one delves a little deeper and examines how the Irish legislation was actually implemented, it becomes clear that there are fundamental differences between the two sanctions.

The Implementation of the Criminal Justice (Community Service) Act 1983

In the Criminal Justice (Community Service) Act 1983, the Probation and Welfare Service was given responsibility for the management and operation of the CSO. After the Act was signed into law, systems had to be put in place to enable the new sanction to operate.

A group of senior Probation and Welfare Service officials were tasked with drafting a document to set out how the new sanction would be implemented. This document, entitled *The Management of the Community Service Order* (Probation and Welfare Service, 1984), provided guidance to Probation Officers on how they should perform the new duties given to them by the Act.

At the beginning of the document, under the heading 'Objectives of Community Service' (Probation and Welfare Service, 1984: 2), three objectives are identified:

(a) to provide a method of dealing with offenders who would otherwise be sentenced to imprisonment
(b) to provide offenders with the opportunity to make general reparation for their offending
(c) to further the notion of community responsibility for offending and involvement of the community with offenders.

From the Probation and Welfare Service's perspective, the CSO was an alternative to imprisonment that would punish offenders and allow them to make general reparations. While the Service itself had a strong rehabilitative ethos, it is clear from this document that it did not believe rehabilitation to be a primary objective of the CSO.

Probation and Welfare Officers were not expected to actively seek to identify an offender's criminogenic needs or attempt to address them, nor did the sanction appear to incorporate any of the rehabilitative concepts and assumptions inherent in the English CSO. As already noted, key to

the rehabilitative design in England and Wales was that offenders would perform meaningful work and, where possible, this would be performed alongside non-offending volunteers. In Ireland, there was not the same focus (in the Oireachtas Debates or in the *Management of the Community Service Order* document) on the type of work that would be performed and the role it could play in rehabilitating offenders. This was not a key element of the Irish sanction. This differentiates the Irish CSO significantly from the CSO in England and Wales. While the CSO had previously been proposed during the Oireachtas Debates as a sanction that could achieve a range of penal functions including rehabilitation, as actually introduced in Ireland it was much more basic.

At its core, the CSO introduced in Ireland was three things.

1. *It was an alternative to imprisonment.* A CSO could be imposed only on offenders who would otherwise have been sentenced to imprisonment.
2. *It was a punishment.* It punished offenders by requiring them to carry out unpaid work in their spare time.
3. *It was reparative.* It allowed offenders to make general reparation by carrying out work in the community that would otherwise not have been done.

While it was hoped that offenders would develop a work ethos from a CSO that would assist them in living a more industrious life, the Irish sanction was not designed to rehabilitate offenders. Rehabilitation was a potential beneficial side-effect of the sanction rather than a primary objective.

Developments to the CSO in Ireland

The developments in the CSO since its introduction in Ireland can be broadly categorised in two groups: operational changes within the Probation and Welfare Service (now the Probation Service and hereafter referred to as such), and legislative changes that sought to expand the use of the CSO.

Operational changes
We will first look at the operational changes within the Probation Service. These generally stem from research and evaluation studies. During the early years of the CSO, there was a distinct lack of criminal justice research conducted in Ireland (Kilcommins *et al.*, 2004). This meant that it was

extremely difficult to identify which parts of the CSO were working well and which were not. The net effect of this was that the CSO remained static and saw little or no development for the best part of two decades.

Between 1999 and 2009, reviews and research studies were conducted (Walsh and Sexton, 1999; Comptroller and Auditor General, 2004; Department of Justice, Equality and Law Reform, 2009; Riordan, 2009). These began to provide some insight into how the CSO was operating in Ireland. They enabled identification of aspects of the scheme not working well and discussions, supported by data, on how the CSO could be improved.

The Walsh and Sexton Report (1999), for example, highlighted that a lack of state-provided insurance cover was a major obstacle for Probation Officers in sourcing suitable community service projects. This led to a solution whereby any injury or damage caused by offenders in the course of a CSO would be covered through the state indemnity and dealt with through the State Claims Agency (Comptroller and Auditor General, 2004: 59).

It was not until the Value for Money and Policy Review of the Community Service Scheme (Department of Justice, Equality and Law Reform, 2009), however, that major operational changes were made. The review identified a number of shortcomings in how the CSO was operating and made recommendations on how the CSO Scheme could be improved.

This led to the Probation Service developing a 'new model' of community service. The 'new model' was introduced as a pilot in the Dublin area in January 2010 as a first step to introducing it nationwide. It involved the establishment of a dedicated community service unit with enhanced administrative supports and new processes. Same-day CSO assessment at the Criminal Courts of Justice (CCJ) was introduced and a more efficient and speedy return to court of offenders who did not co-operate with the Probation Service while serving a CSO was implemented (Probation Service, 2011: 9).

In 2011, the Probation Service set about expanding aspects of the 'new model' of community service to other parts of the country. Same-day assessments were implemented permanently in the CCJ in Dublin and, following that, at Court sittings around the country where there were a sufficient number of referrals to the Service and where facilities were in place for a Probation Officer to compile same-day assessment reports (Probation Service, 2012: 8).

As the CSO became the focus of research studies, improvements began to be made to the sanction. It is important to highlight, however, that while these changes may have improved the operation of the CSO, they did not alter or change the core structures of the CSO. After the changes were implemented, the CSO was still the same sanction introduced in 1983, albeit a possibly more operationally efficient version.

Legislative changes

The second category of developments are legislative changes made in an attempt to expand the use of the CSO. Two are worth noting here: the Criminal Justice (Community Service) (Amendment) Act 2011 and the Fines (Payment and Recovery) Act 2014.

Following the global financial crisis in 2008 and the fall of the Irish economy into severe recession, the government urgently needed to find ways to cut costs and reduce public spending. From the Department of Justice's perspective the prison system was a major expense, increasing year after year. The number of people sentenced to prison each year had grown substantially over the previous 20 years.

In 1991, there were 4435 committals to prison under sentence (O'Mahony, 2002: 597). By 2010 this had risen to 12,487 (Irish Prison Service, 2011). The average daily prison population rose from 2108 in 1990 (O'Donnell *et al.*, 2005) to 4290 in 2010 (Irish Prison Service, 2011: 13). Furthermore, studies commissioned by the Department of Justice to predict the prison population into the future showed this upward trend was likely to continue (Schweppe and Saunders, 2009).

By 2011, when Alan Shatter became Minister for Justice, reducing prison numbers was a top priority. He, like his predecessor in 1983, saw the CSO as a sanction capable of diverting substantial numbers of offenders away from costly prison sentences (Dáil Debates, Vol. 729, Col. 588, 7 April 2011; Seanad Debates, Vol. 209, Col. 926, 26 July 2011). The problem was that many judges appeared reluctant to use the CSO. Since its introduction in 1983, use of the sanction had remained relatively low. To increase the use of the CSO, the Minister introduced the Criminal Justice (Community Service) (Amendment) Act 2011.

As set out in that Act's explanatory memorandum, this increase was to be achieved by amending Section 3 of the 1983 Act to include a requirement that judges consider imposing a CSO in all cases where they would otherwise have imposed a prison sentence of 12 months or less. This was to be the key change to the 1983 Act. It could be argued,

however, that this amendment changed very little, if anything. Essentially all it did was require judges to consider a sanction that already existed and was already available to them. It is difficult to see how this would alter judges' use of the sanction. If a judge was reluctant to impose a CSO prior to the implementation of the Act – because they did not believe a certain type of offender was suitable for a CSO, or they did not believe there were suitable projects in their area for community service, or for any other reason – what did the Act change? It did not address why judges were not imposing CSOs or make any changes to the sanction itself.

The other legislative development affecting the CSO arose in 2016 with the commencement of the Fines (Payment and Recovery) Act 2014, which was introduced to reduce the number of fine defaulters who were being imprisoned each year. Section 19 of that Act gives judges the power to impose a CSO as an alternative to a term of imprisonment for persons failing to pay a fine. Prior to this, when a person defaulted on a fine, judges had no option but to impose a prison sentence. While this is likely to result in a reduction in prison committals for fine defaulters and an increase in the number of CSOs imposed, it has been highlighted that it could also have some unintended negative consequences (Guilfoyle, 2016).

One such consequence is the devaluation of the CSO. Under the Criminal Justice (Community Service) Act 1983, as amended by the Criminal Justice (Community Service) (Amendment) Act 2011, 240 hours' community service is benchmarked against 12 months' imprisonment. Under the Fines (Payment and Recovery) Act 2014, however, when a person is sentenced for failing to pay a fine imposed summarily in the District Court, where the vast majority of fines are imposed, 100 hours' community service is benchmarked against 30 days' imprisonment.

In these cases, the Fines (Payment and Recovery) Act 2014 allows a judge to impose a prison sentence not exceeding 30 days or a CSO of up to 100 hours. If judges are regularly valuing the CSO in accordance with that Act, could this affect how they value and use the CSO when sentencing an offender in the wider criminal justice system?

The concern is that while there may be an increase in the use of the CSO, the category of offender receiving it will change. It can be anticipated that there will be an increase in the use of CSOs in fine default cases and possibly for other low-level offenders, but might there be a reduction over

time in its use as an alternative to prison sentences that are approaching 12 months or beyond?[2]

Both legislative changes were introduced to expand the use of the CSO. The Criminal Justice (Community Service) (Amendment) Act 2011 targeted higher level offenders: those receiving prison sentences of up to 12 months as well as those receiving prison sentences of more than 12 months. The Fines (Payment and Recovery) Act 2014 targeted the very lowest level of offenders – fine defaulters. Again, what is important to note here is that while both sought to expand the use of the CSO, neither of them changed the CSO itself.

Since the CSO was first introduced in Ireland, some developments and changes have been made to the sanction, within the Probation Service or by way of legislation. These changes, however, have not altered the core elements of the sanction. They have not changed what a CSO is in Ireland.

It is important to highlight this for a number of reasons. This experience in Ireland is very different to that in other jurisdictions around the world, especially neighbouring jurisdictions. England and Wales, Scotland and Northern Ireland, for example, have seen fundamental changes to their community service sanctions in recent years, whereby community service can now be combined with a wide range of requirements (drug treatment, counselling, training, etc.), depending on the nature of the crime committed and underlying issues that need to be addressed in order to stop the offending behaviour. There can be a strong rehabilitative focus to these sanctions if a judge so wishes.

There is a danger that this international experience can create a degree of uncertainty and confusion when the CSO is discussed in Ireland. It could lead to the Irish CSO's capabilities – particularly its rehabilitative possibilities – being overstated, and some might expect the Irish CSO to achieve more than it is designed to achieve. If it does not meet expectations, the CSO could be viewed as failing, the focus being on recidivism rates while the high completion rates (Department of Justice, Equality and Law Reform, 2009) and the benefits communities are receiving from the unpaid work carried out are ignored.

---

[2] For a more detailed analysis of the potential unintended negative consequences of S19 of the Fines (Payment and Recovery) Act 2014, see Guilfoyle (2016).

The future

In 2014 a comprehensive review of penal policy in Ireland by the Penal Policy Review Group was published. It recommended, among many other things, that the Probation Service should examine the feasibility of introducing, on a pilot basis, an integrated CSO where community service could be imposed with additional conditions (Penal Policy Review Group, 2014: 49). The Probation Service has taken this recommendation on board and, at the time of writing, has begun a pilot scheme that allows for up to one-third of an offender's CSO hours to be completed in education, training or treatment.

While this would appear to be a positive development, there is a lot we do not know about the 'new sanction' and how it operates. One criticism is the lack of public debate, discussion or explanation of the changes to the CSO. This makes it difficult, at the present time, to critique the changes properly and to consider and assess the benefits as well as the potential unintended negative consequences that may arise from the changes.

The Penal Policy Implementation Oversight Group has indicated that the pilot scheme should be closely monitored and an evaluation conducted upon completion. It is hoped that this will be done and results will be published to ensure that any potential issues with the new sanction can be identified, teased out and, if necessary, the sanction amended prior to being rolled out nationwide.

The question as to whether legislation would be required in order to introduce the proposed changes also needs to be addressed. The integrated CSO is seeking to incorporate rehabilitation into community service. This would significantly change the Irish CSO.

It should also be noted that, when the Criminal Justice (Community Service) Act 1983 was before Dáil Eireann, an amendment was proposed to allow for part of an offender's community service hours to be spent in education or training. This was rejected by the Minister for Justice, Michael Noonan, who stated:

> I stress that [the CSO] is a penalty. I do not think it would be appropriate or desirable to include in this Bill any sanctions which do not have this effect. (Dáil Debates, Vol. 343, Col. 909, 8 June 1983)

This raises some doubts as to whether it would be appropriate to implement the 'Integrated CSO' without going through the legislative

process and allowing the Oireachtas to discuss, debate and approve these changes.

Conclusion

This article began by exploring the provenance of community service as a penal sanction and by setting out the 'original concept' of the CSO. It was then shown that while the legislation that introduced the CSO in Ireland was almost identical to corresponding legislation in England and Wales, there were substantial differences between the English/Welsh and Irish CSOs. The Irish CSO was more basic and there was not the same focus on rehabilitation. At its core, the Irish CSO was an alternative to imprisonment that punished offenders while allowing for them to make reparation to the community.

The article then examined the developments that have been made to the sanction over the years in order to understand what it has become. It highlights changes made by the Probation Service as well as by legislation. It argues that while these may have improved the operation of the CSO and attempted to expand its use, they did not alter the core elements of the sanction. They did not change what the CSO is in Ireland.

With the use of the CSO having declined in recent years (Probation Service, 2011, 2012, 2013, 2014, 2015) and with more becoming known about the high levels of mental illness and addiction among prisoners[3] (Kennedy *et al*., 2004), discussions are once again being had about what changes can be made to the Irish penal system to reduce the use of imprisonment. This article has sought to provide clarity as to what exactly a CSO currently is in Ireland.

With debate about how to reduce the use of imprisonment likely to intensify in the wake of the Penal Policy Review Group's recommendations, and the piloting of the integrated CSO, it is hoped that this article can provide a base for discussion about the CSO and possible changes that could be made to the sanction to enhance its ability to achieve this important goal.

[3] Michael Donnellan, Director General of the Prison Service, speaking to the Public Accounts Committee on 2 February 2017 said that more than 70% of Irish prisoners have addiction issues. http://www.irishtimes.com/news/crime-and-law/more-than-70-of-prisoners-have-addiction-issues-1.2961144

References

Comptroller and Auditor General (2004), *Report on Value for Money Examination of the Probation and Welfare Service*, Dublin: Stationery Office

Department of Justice, Equality and Law Reform (2009), *Value for Money and Policy Review of the Community Service Scheme*, Dublin: Department of Justice, Equality and Law Reform

Guilfoyle, E. (2016), 'An exploration of the potential negative effects of using Community Service Orders as an alternative to imprisonment for fine defaulters in Ireland', *Irish Criminal Law Journal*, no. 4, pp. 94–99

Home Office (1969), *People in Prison (England and Wales)*, Cmnd 4214, London: HMSO

Home Office (1970), *Non-Custodial and Semi-Custodial Penalties, Report of the Advisory Council on the Penal System*, London: HMSO

House of Commons (2016), *Briefing Paper – Prison Population Statistics*, London: House of Commons Library

Irish Prison Service (2011), *Annual Report 2010*, Dublin: Irish Prison Service

Jennings, H. (1990), *Community Service Orders in Ireland: Evolution and Focus*, Dublin: University College Dublin

Kennedy, H., Monks, S., Curtain, K., Wright, B., Linehan, S., Duffy, D. and Teljeur, C. (2005), *Mental Health in Irish Prisons: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, Dublin: National Forensic Mental Health Service

Kilcommins, S. (2002), *The Introduction of Community Service Orders: An Historical Interpretation*, Chichester, UK: Barry Rose Law Publishers

Kilcommins, S. (2014), 'The Introduction of Community Service Orders: Mapping Its Conditions of Possibility', *Howard Journal of Criminal Justice*, vol. 53, no. 5, pp. 487–510

Kilcommins, S., O'Donnell, I., O'Sullivan, E. and Vaughan, B. (2004), *Crime, Punishment and the Search for Order in Ireland*, Dublin: Institute of Public Administration

MacBride, S. (1982), *Crime and Punishment*, Dublin: Ward River Press

NESC (1984), *The Criminal Justice System: Policy and Performance Report No. 77*, Dublin: National Economic and Social Council

O'Donnell, I., O'Sullivan, E. and Healy, D. (2005), *Crime and Punishment in Ireland 1922 to 2003: A Statistical Source Book*, Dublin: Institute of Public Administration

O'Mahony, P. (2002), *Criminal Justice in Ireland*, Dublin: Institute of Public Administration

Pease, K. (1975), *Community Service Order, Home Office Research Study No. 29*, London: HMSO

Pease, K. (1981), *Community Service Orders: A First Decade Promise*, London: Howard League for Penal Reform

Pease, K., Billingham, S. and Earnshaw, I. (1977), *Community Service Assessed in 1976, Home Office Research Study No. 39*, London: HMSO

Penal Policy Review Group (2014), *Strategic Review of Penal Policy: Final Report*, Dublin: Department of Justice and Equality

Probation and Welfare Service (1984), *The Management of the Community Service Order*, Dublin: Probation and Welfare Service

Probation Service (2011), *Annual Report 2010*, Dublin: Probation Service

Probation Service (2012), *Annual Report 2011*, Dublin: Probation Service

Probation Service (2013), *Annual Report 2012*, Dublin: Probation Service

Probation Service (2014), *Annual Report 2013*, Dublin: Probation Service

Probation Service (2015), *Annual Report 2014*, Dublin: Probation Service

Report on Crime (1977), Dublin: Stationery Office

Report on Crime (1981), Dublin: Stationery Office

Report on Prisons and Places of Detention (1984), Dublin: Stationery Office

Riordan, D. (2009), *The role of the Community Service Order and the Suspended Sentence in Ireland: A Judicial Perspective*, Cork: University College Cork

Schweppe, J. and Saunders, J. (2009), *Report on Prison Population Projections 2009–2024*, Dublin: Irish Prison Service

Vass, A. (1984), *Sentenced to Labour: Close Encounters with a Prison Substitute*, St Ives, UK: Venus Academica

Walsh, D. and Sexton, P. (1999), *An Empirical Study of Community Study Orders in Ireland*, Dublin: Stationery Office

West, J. (1976), 'Community Service Orders', in J. King and W. Young (eds), *Control Without Custody?*, Cambridge, UK: Cambridge Institute of Criminology

Young, W. (1979), *Community Service Orders: The Development and Use of a New Penal Measure*, London: Heinemann

Book Reviews

Coaching Behind Bars: Facing Challenges and Creating Hope in a Women's Prison★
Clare McGregor
Maidenhead, UK: Open University Press, 2015
ISBN: 978-0-335-26442-1, 136 pages, paperback, £23.99

'No one is beyond hope, even behind bars.' Clare McGregor's final sentence in *Coaching Behind Bars* seems to me the most appropriate starting point for this review of a book that will appeal to a wide range of readers, particularly to those of us who have been fortunate enough to have experienced the wit, wisdom and resilience of the women who find their way into the criminal justice system.

The writing style is easy but elegant, blending gentle, sometimes self-deprecating humour with an incisive knowledge of behavioural psychology and the confidence of someone who is master of her craft: in this case, coaching. It was a nostalgic read, as the themes reflected many aspects of the work that have been part of my career development. One of my earliest posts in the Irish Probation Service was in the Women's Prison. Interestingly, it is now known as the Dóchas Centre, *dóchas* being the word for 'hope' in the Irish language. Many years later, I oversaw the delivery of a coaching programme for managers in the Probation Service. It never occurred to me that the discipline of coaching might be transferable to work with women in prison. This book draws from the author's personal experience to tell us just how it can be.

Clare McGregor tells the story of how she came to provide a coaching programme to women incarcerated in Her Majesty's Prison and Young Offenders' Institution Styal, located in Cheshire East, 12 miles from Manchester city centre. As a coach, she had worked with professionals who were already highly effective but wanted to move up another level (as

★ Reviewed by Ursula Fernée, Regional Manager, The Probation Service (email: ugfernee@ probation.ie).

an executive coach once said to me, 'to play at the top of their game' – and there will be no further metaphors from sport).

The recession took its toll on her business but also provided McGregor with time to draw breath and conceive a plan to make coaching available to those who were at rock bottom, with no belief or confidence in their capacity to change their life script. Such a plan could be regarded as naïve at best, and at worst completely mad, but the Governor of Styal was receptive to the approach.

The charity, Coaching Inside and Out (CIAO), was established in 2013 and the author and her colleagues found themselves behind bars, negotiating unfamiliar processes, a new language and all of the challenges of locating the client at a particular time and in an appropriate space.

By 2015, 25 coaches had worked with women, average age 34 years, serving a range of sentences for a variety of offences, but with no recent history of violence. (By the way, I too visited HMP Styal when I worked in probation in England. These shared strands are now getting eerie!)

McGregor's belief, confidence and clarity about coaching practice, where the wisdom and power lies with the client and not the coach, underpins her writing and is patently visible in the direct quotes from the women that punctuate and elucidate the narrative. The emotional/physical deprivation, loss and abuse characterising the lives of so many of these women stands in stark contrast to the success and privileges that the usual recipients of coaching enjoy. In her earlier practice, McGregor focused on supporting high performers to achieve even greater effectiveness within their organisations. She is now looking through a very different lens when she says 'If you work from what some see as the bottom up then you are working where there is the most potential in our society: potential we cannot afford to waste.'

The description of engagement with the women is really interesting, particularly for those of us who have struggled with introducing new programmes/approaches to address offending. While the aim of the coaching with these clients (they are not referred to as offenders) is not to stop them offending but to assist them in reaching their potential, there is a confidence that the process will help to stop people committing crime. The standard 'coaching programme' offered is usually six hours over a number of sessions, at three-week intervals. The unexpected releases and transfers were just another reality of prison culture to which coaches learned to adapt, working within each session to awaken, if not unlock, individual potential for problem solving.

At one point one woman says, 'You ask all the right questions.' As McGregor tells us, these key questions are the essence of coaching. What do you want to change? What's holding you back? What assumptions are you making? What strengths do you have? How can you achieve what you want? The Outcomes Star, which looks at key life themes, is used at first contact to help the women to consider what it is they want to change and to identify their own goals. Their narratives are testament to how the realisation of the possibility of change can fuel the energy and personal resources to make and follow through on positive choices.

The chapters entitled 'The Pain' and 'The Problems' are not easy reading as they go to the heart of the lived experiences of these women. Self-harm, mental health issues and substance misuse are just some of the manifestations of prisoners' attempts to manage their lack of self-esteem and often extreme feelings of self-loathing. It can be difficult, ironic as it may seem to members of the wider community, to keep women safe in custody.

When I worked in the prison, I insisted on hearing the early news reports and remember the immense sense of relief when there were no reports of self-harm or suicide. The feeling of loss and sadness is pervasive but there is no sense that the coaches are overwhelmed by these accounts, nor have they lost sight of the harm caused by these clients. Many of Biestek's[1] principles of social work seem to underpin their practice, with individualisation, client self-determination and acceptance at the very core of the coaching relationship. What is particularly striking is how the coaches managed to communicate high expectations in a way that engendered and fostered self-belief. The author reminds us of how positive it can be when others express their confidence in your abilities and you realise that you can do it after all.

Reading the chapters, I was acutely aware of the efforts that the coaches made to understand prison culture, its language, its values and its unwritten rules. In an institution where security is paramount, the 'professional outsider' cannot be effective, or even function, if trust and respect are absent from the relationships with the guardians of that security. While there were sceptical, sometimes amusing, comments from staff, the appropriate attention given to building those relationships was beneficial. The fact that the women valued the coaching clearly served to strengthen those bonds.

[1] Biestek, F. (1957), *The Casework Relationship*, Chicago: Loyola University Press.

We have to remember in any discussion about relationships that, sad as it may seem, the best family for many of these women is in Styal. The book does not elaborate in any detail on the interactions with other services in the prison (including Probation). It does stress the importance of alignment with other professionals and the recognition that identified goals can connect/reconnect the women with relevant support services either inside or outside the prison walls.

The practice framework described, often through the voices of the clients and the coaches, clearly demonstrates how the coaching conversation can galvanise and harness individual strengths that have remained untapped for a multiplicity of reasons. I was amused to hear the author say how quickly the women sense if you are 'for real' – I felt that same feeling of fulfilment and, dare I say, self-satisfaction from a prisoner's words of endorsement – 'she's sound'. McGregor's writing is both real and sound and, while her enthusiasm for her subject is awe-inspiring, she clearly states that coaching is not a panacea.

This is an enjoyable and demanding read. It is essentially about asking the right questions rather than providing the answers. The wisdom and the tapestry of reflections stimulate the reader to pause and reflect in turn. I appreciated, not for the first time, the honesty, the insight, the compassion and the belief in human redemption that unites us criminal justice practitioners. I think you will too.

Critical Perspectives on Hate Crime: Contributions from the Island of Ireland★
Edited by Amanda Haynes, Jennifer Schweppe and Seamus Taylor
Basingstoke, UK: Palgrave Macmillan, 2017
ISBN: 978-1-137-52666-3, 524 pages, hardback, £66.99

Critical Perspectives on Hate Crime discusses and explores the subject of hate crime from an all-Ireland and multidisciplinary perspective. The text is divided into three parts and chapter contributions are offered from various disciplines including criminal justice, sociology, law, social policy and practitioners.

Within the island of Ireland, the concept of understanding and respecting diversity lies on a wide continuum. The UK's decision to leave the European Union saw a spike in the number of reported hate crimes and has visibly highlighted the presence of explicit and implicit bias, prejudice and discriminatory attitudes. It is accepted that this same conscious and unconscious intolerance towards difference is a problem in an all-Ireland society.

This book offers various insights and overviews into the development of a cross-border approach to understanding and tackling hate crime from various contributors. The Republic of Ireland stands as a jurisdiction without hate crime legislation. Perspectives are given on the possible disappearance of the hate crime element in this context. Conversely, hate crime is embedded as a crime 'aggravated by hostility' within the criminal justice field in the North of Ireland. Viewpoints are offered that in spite of its existence, the legislation is under-utilised and should not be viewed as a stand-alone. This is explored further in a post-conflict era where communities have been affected by sectarianism and violence.

The range of identity groups who experience hate crime are outlined. Chapters include discussion around racialised communities, Irish Traveller and Roma communities, people with disabilities and the LGB community. Other chapters are devoted to the unique experiences of the transgender community and exploration of how sex workers are exposed to harm and violence.

The book approaches various themes arising from the aspiration of inclusivity and the acceptance and embracement of diversity. Some of these themes call for the need to send a message of intolerance on hate crime by highlighting the role of hate in legislation. Others call for the need for strategic policy and practice responses. Others pose the debate and links between legal and educative solutions. Preventative measures to hate behaviours are tentatively approached, and the role of interventions to challenge intolerant attitudes and promote diversity for those convicted of hate crime is meditated on.

The subject of hate crime deserves absolute priority, and this book advocates discourse, understanding and action on tackling it. The contributors provide interesting insights and interpretations and allow for further shared learning and collaborations in an all-Ireland and a global context.

Parole and Beyond 2017: International Experiences of Life After Prison★
Edited by Ruth Armstrong and Ioan Durnescu
Basingstoke, UK: Palgrave Macmillan, 2017
ISBN: 978-1-349-95117-8, 319 pages, hardback, €83.00

If I had a euro for every time a prisoner has said 'This is it, done with prison, never coming back', I'd be writing this from somewhere with a guaranteed summer, like Barbados or Skibbereen. Even if I had a euro for every time it impressed as a genuine intent, I would boast a good farmer's tan. Unfortunately, if it was only paid according to success, I might stretch to a weekend in Ballybunion … off-season.

It has often struck me that we often meet the best of our clients in prison. They attend for appointments, engage attentively and appear highly motivated. Many offenders thrive on the stability, structure, support and attention to basic needs of food and shelter. Though, obviously, drugs are available, there are many who establish greater control over addictions and, sometimes, detoxify effectively. As many of my and my colleagues' clients nestle back into prison, it is clear that many ex-prisoners do not manage when they return to their communities. Ask any probation practitioner and you will hear several themes recurring almost universally as to the factors contributing to further offending and incarceration. This collection looks to put some of these questions to the ex-prisoners themselves, collating the experiences of ex-prisoners struggling to put their lives back together.

With greater frequency than in previous years, many prisoners leave Irish prisons with some form of Probation Service supervision. Courts are increasingly using recent legislation providing for Part-Suspended Sentence Supervision Orders. Life-sentenced prisoners are subject to supervision when released on parole and, for a number of reasons, structured supervision programmes on release, such as Community Return,[1] are viewed as the way forward. Within this context, this anthology of papers on post-release supervision in different jurisdictions is timely.

In this book, edited by Ruth Armstrong and Ioan Durnescu, there are reports and narratives relating to several international jurisdictions. The title, *Parole and Beyond*, could be seen as somewhat misleading, as

★ Reviewed by Gerry Griffin, Probation Officer, Limerick (email: gtgriffin@probation.ie).
[1] McNally, G. and Brennan, A. (2015), 'Community return: A unique opportunity', *Irish Probation Journal*, vol. 12, pp. 141–160.

not all subjects fall within a parole-type experience, most strikingly in the accounts of ex-prisoners in Sierra Leone. The accounts of ex-prisoners' experiences include reports from England, Denmark, Netherlands, USA (with two entries), Australia, Chile, Scotland, Romania and, as mentioned, Sierra Leone.

Each research project covered applies a different methodology in data collection, varying from structured, singular interview to more immersive projects. Beginning with an overview of the populations involved and outlining the nature of the supervision type, each author looks to illuminate the reported experiences of prisoners returning to their communities. Within a general approach, there are specific enquiries into the ex-prisoners' experience of statutory supervision, whether by Probation Officers, Parole Officers, designated social workers or similar experts. Through the accounts of these men and women, the policy, the direction and purpose of post-release supervision is defined.

Throughout the studies, there are differences in the approach of different jurisdictions to the re-entry of prisoners to their communities. Some jurisdictions have an authoritative, monitoring function, with a primary focus to ensure compliance with terms of release. Respondents in several case studies report that full compliance is either impossible or made so by the innate contradictions between different, contemporaneous conditions. Other jurisdictions seem to stress support, rehabilitation and problem-solving as primary responsibilities of post-release supervision, but the contradictory and unfocused observations persist. Though there are massive differences between the life experiences of people living in Scotland, Romania, Sierra Leone and Bible-Belt USA, there is a consistency running through these studies identifying universal difficulties faced by prisoners at release. One such theme is the manner in which they experience and interpret supervision by statutory agencies.

With regularity, each study identifies respect as an issue of primary concern for the ex-prisoners. Respondents spoke favourably of their interactions with supervising officers, regardless of the purpose or effectiveness of such interventions, where they felt treated with respect. Worryingly, sometimes the absence of overt rudeness and disdain was enough to contrive a respectful relationship. Other themes of significance from a practitioner's viewpoint include confusion on the part of the ex-prisoners regarding the purpose of supervision; a lack of clarity about what constituted successful compliance; and a sense that post-release supervision was designed entirely to control behaviour and, occasionally,

to sabotage the efforts of those released from prison to move on with their lives. Where offenders spoke positively about the experience, they mentioned, consistently, the relationship with their supervisor and a sense that the official both cared about and listened to what they had to say.

Regarding attempts by ex-prisoners to establish lives without offending, a number of issues emerge with consistency in all studies. For many prisoners, returning to situations of poverty and exclusion was cited as having major significance, making change an extremely fraught endeavour. The stigma of conviction exacerbated existing barriers to education, employment and, in a general sense, inclusion within society. Returning to the same locations, surrounded by the same peers and accessing the same activities all served to undermine attempts to re-identify as non-offending, constructive citizens. Those who stood the best chance of avoiding further conviction seemed those best placed to alter their self-identification, whether through employment, familial relationships or, as in one of the American studies, spiritual conversion.

Many respondents spoke to the researchers of the means by which the institutions of state sought to hamper rather than support change, to reinforce the ex-prisoner's identity as an offender and a criminal. Where individuals made efforts to support positive reintegration, underlying societal forces regularly proved of greater influence. In the latter instances, it seemed that there was little preparation for life after supervision ended. Ex-prisoners managed to avoid reconviction while subject to supervision orders and, possibly, swift return to prison, but regularly returned to old habits when the perceived heat was off.

Another theme that emerges is that of arbitrariness, that conditions can be placed on offenders in a 'one size fits all' arrangement. People, for example, who did not identify themselves as problem drug users were compelled to attend addiction services. A further issue was vagueness of recommendations, non-specific to the individual, and the lack of client participation when devising action plans. I know from experience that prisoners often approach me to clarify what is meant when prison or parole authorities determine they should 'engage with services', a blanket catch-all condition that means little to the individual.

Working within a prison, it is obvious that post-release supervision regularly ends with the offender's return to prison. This book outlines many of the reasons for this. Structured, personalised and participatory release plans seem more effective in supporting ex-prisoners in holding on to the 'ex-'. Where supervised release is most effective, in my experience,

is with life-sentence prisoners. Lifers are not released with insecure accommodation and uncertain daytime activity. More time and energy is spent in explaining the terms and parameters of supervision. More support is available to, generally, an older and more mature client group.

In summary, there is certainly a bleakness in these accounts of ex-prisoners and their struggles after release. The book is notable in giving time and a voice to people who are more easily disregarded because of their past transgressions. Many questions occurred to me while reading the book. It did prompt a pause for reflection on my own practice and to consider how my interactions are perceived and experienced by clients. Particularly, it reinforced my sense that rather than support people to change, we often intervene in a manner that expects them to be different. There are lessons to be learned from the stories and experiences in this book.

General Information & Guidelines for Contributors

IPJ, a joint initiative of the PS and the PBNI, aims to:

- Provide a forum for sharing good theory and practice, increasing co-operation and learning between the two jurisdictions and developing debate about work with offenders.

- Reflect the views of all those interested in criminal justice in an effort to protect the public and to manage offenders in a humane and constructive manner.

- Publish high-quality material that is accessible to a wide readership.

IPJ is committed to encouraging a diversity of perspectives and welcomes submissions which genuinely attempt to enhance the reader's appreciation of difference and to promote anti-discriminatory values and practice.

Preliminary Consultation: If you have a draft submission or are considering basing an article on an existing report or dissertation, one of the co-editors or a member of the Editorial Committee will be pleased to read the text and give an opinion prior to the full assessment process.

Submissions: Contributions are invited from practitioners, academics, policymakers and representatives of the voluntary and community sectors.

IPJ is not limited to probation issues and welcomes submissions from the wider justice arena, e.g. prisons, police, victim support, juvenile justice, community projects and voluntary organisations.

Articles which inform the realities of practice, evaluate effectiveness and enhance understanding of difference and anti-oppressive values are particularly welcome.

Originality: Submissions will be considered on the understanding that they are original papers that have not been published or accepted for publication elsewhere. This does not exclude submissions that have had limited or private circulation, e.g. in the writer's local area, or as a conference paper or presentation.

IRISH PROBATION JOURNAL is a peer-reviewed publication. The following types of submission are considered.

Full Length Articles: Normally around 3,500–5,000 words, though all contributions up to a maximum of 7,500 words including references will be considered.

Practice Pieces: Shorter practice pieces are very welcome These offer an opportunity to describe a recent piece of practice, practice-related issues or recent practice developments in brief. Ideally around 2,000–3,000 words including references; 4,000 words maximum.

All *full-length articles* submitted to the journal are anonymised and then subjected to rigorous peer review by members of the editorial board and/or editorial advisory board and/or by appointed specialist assessors. The final decision to publish or reject is taken by the editors in the light of the recommendations received.

All *practice pieces* will be considered and a link-person from the editorial committee will be assigned to liaise with the author. The final decision to publish practice pieces will be taken by the editors.

More detailed guidelines for contributors are available from the Editorial Committee on request and should be followed when making submissions.